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सं. 6] नई दिल्ली, फरवरी 1—फरवरी 7, 2004, शनिवार/माघ 12—माघ 18, 1925
No. 6] NEW DELHI, FEBRUARY 1—FEBRUARY 7, 2004, SATURDAY/MAGHA 12—MAGHA 18, 1925

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएँ
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

मंत्रिमंडल सचिवालय

नई दिल्ली, 27 जनवरी, 2004

का. आ. 269.—केन्द्रीय सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कर्नाटक राज्य सरकार की अधिसूचना सं. एचडी 237 पीसीआर 2003 दिनांक 31-10-2003 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से श्री एस. सी. कुलकर्णी, डीई, भारत संचार निगम लिमिटेड, मुद्देबिहाल डिविजन, बीजापुर टेलीकॉम डिस्ट्रिक्ट, कर्नाटक और किन्हीं अन्य लोक सेवकों अथवा व्यक्तियों के विरुद्ध भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का अधिनियम सं. 49) की धारा 7 और धारा 13(2) सपठित धारा 13(1)(डी) के अधीन दंडनीय अपराधों और उपर्युक्त अपराधों में से एक अथवा अधिक से संबंधित अथवा संसक्त प्रयत्नों, दुष्टचर्यों और षडयंत्र तथा उसी संव्यवहार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध और अपराधों के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करती है।

[सं. 228/6/2004—डी.एस.पी.ई.]

शुभा ठाकुर, अवर सचिव

CABINET SECRETARIAT

New Delhi, the 27th January, 2004

S. O. 269.—In exercise of the powers conferred by the Sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of State Government of Karnataka, vide Notification No. HD 237 PCR 2003 dated 31-10-2003, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences against Shri S. C. Kulkarni, DE, Bharat Sanchar Nigam Limited, Muddebihal Division, Bijapur Telecom District, Karnataka and any other public servants or persons punishable under Section 7 and Section 13(2) read with 13(1)(d) of Prevention of Corruption

Act, 1988 (Act No. 49 of 1988) and attempts, abetments and conspiracy in relation to or in connection with one or more of the offence mentioned above and any other offence and offences committed in the course of the same transaction or arising out of the same facts.

[No. 228/6/2004-DSPE]

SHUBHA THAKUR, Under Secy.

नई दिल्ली, 28 जनवरी, 2004

का. आ. 270.—केन्द्रीय सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए बिहार राज्य सरकार के गृह (पुलिस) विभाग की अधिसूचना सं. 1/सीबीआई-8014/2002 एच (पी) 9598/पटना दिनांक 24-8-2002 द्वारा प्राप्त बिहार राज्य सरकार की सहमति से दिल्ली विशेष पुलिस स्थापना के सदस्यों को अधिकारिता का विस्तार संपूर्ण बिहार राज्य में पुलिस स्टेशन साहेबपुर कमाल में दर्ज हुए एफ. आई. आर. सं. 62/98 दि. 13-6-98 अंतर्गत धारा 364/395 भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) के अधीन तथा उपर्युक्त अपराध से संबंधित अथवा संशक्त प्रयत्न, दुष्प्रेरण और षडयंत्र तथा उसी संव्यवहार के अनुक्रम में अथवा उन्हीं तथ्यों से उद्भूत किया गया अथवा किए गए किसी अन्य अपराध अथवा अपराधों का अन्वेषण/अनुसंधान करने के लिए करती हैं।

[सं. 228/58/2002-डी.एस.पी.ई.]

शुभा ठाकुर, अवर सचिव

New Delhi, the 28th January, 2004

S. O. 270.—In exercise of the powers conferred by the Sub-section (1) of Section 5 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Govt. of Bihar issued vide Home (Police) Deptt. Notification No. 1/CBI-8014/2002H(P) 95/Patna dated 24-8-2002 hereby extends the powers and jurisdiction of the members of Delhi Special Police Establishment to the whole of the State of Bihar to investigate the case FIR No. 62/98 dated 13-6-98 registered at Police Station Sahebpur Kamal under Sections 364/395 of India Penal Code, 1860 (Act No. 45 of 1860) and attempt, abetment, conspiracy in relation to or in connection with the offences mentioned above or and any other offence committed in the course of same transaction arising out of the same facts.

[No. 228/58/2002-DSPE]

SHUBHA THAKUR, Under Secy.

वित्त मंत्रालय

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 19 जनवरी, 2004

का. आ. 271.—रूपण औद्योगिक कंपनी (विशेष उपबंध) अधिनियम, 1985 की धारा 6 की उपधारा (2) के साथ पठित धारा 6 की उपधारा (5) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा, श्री एन. पी. बागची, सदस्य, औद्योगिक एवं वित्तीय पुनर्निर्माण बोर्ड (बीआईएफआर) को तत्काल प्रभाव से 4 अप्रैल, 2004 तक, अर्थात् सदस्य के रूप में उनके कार्यकाल की समाप्ति की तारीख तक अथवा एसआईसीए, 1985 के निरसन की अधिसूचना के जारी किए जाने तक, अथवा अर्गला आदेश होने तक, इनमें से जो भी सबसे पहले हो, बीआईएफआर के अध्यक्ष के रूप में कार्य करने के लिए प्राधिकृत करती है।

[फा. सं. 20(3)2003-आईएफ-II]

कृष्ण लाल, अवर सचिव

MINISTRY OF FINANCE

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 19th January, 2004

S. O. 271.—In pursuance of the powers conferred by Sub-section (5) of Section 6 read with Sub-section (2) of Section 6 of the Sick Industrial Companies (Special Provisions) Act, 1985, the Central Government hereby authorizes Shri N. P. Bagchee, Member, Board for Industrial and Financial Reconstruction (BIFR) to act as 'Chairman' BIFR with immediate effect and till 4th April, 2004, i.e., the date of expiry of the tenure as Member or till the notification for repeal of SICA, 1985 is issued or until further orders, whichever is the earliest.

[F. No. 20(3)2003-IF.II]

KRISHAN LAL, Under Secy.

केन्द्रीय उत्पाद शुल्क एवं सीमा शुल्क आयुक्त का कार्यालय

अधिसूचना सं. 01/2004

नागपुर, 20 जनवरी, 2004

का. आ. 272.—श्री पी. टी. पडोले, अधीक्षक, समूह ख केन्द्रीय उत्पाद शुल्क एवं सीमा शुल्क आयुक्तालय, नागपुर, ऐच्छीक सेवानिवृत्ति पर दिनांक 01-01-2004 को पूर्वान्ह में शासकीय सेवा से निवृत्त हुए।

[फा. सं. II(7)4/97/स्था. I]

आर. के. विग, अपर आयुक्त (कार्मिक एवं सतर्कता)

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE & CUSTOMS

NOTIFICATION No. 01/2004

Nagpur, the 20th January, 2004

S. O. 272.—Shri P. T. Padole, Superintendent, Group 'B' Central Excise & Customs Commissionerate, Nagpur has retired voluntarily from Government Service in the forenoon of 1st January, 2004.

[C. No. II(7)4/97/Estt. I]

R. K. VIG, Addl. Commissioner (P&V)

अधिसूचना सं. 02/2004

नागपुर, 20 जनवरी, 2004

का. आ. 273.—श्रीमती आर. ए. गडकरी, प्रशासनिक अधिकारी, समूह (ख) केन्द्रीय उत्पाद शुल्क एवं सीमा शुल्क आयुक्तालय, नागपुर, ऐच्छीक सेवानिवृत्ति पर दिनांक 11-12-2003 को पूर्वान्ह में शासकीय सेवा से निवृत्त हुई।

[फा. सं. II(7)4/97/स्था. I]

आर. के. विग, अपर आयुक्त (कार्मिक एवं सतर्कता)

NOTIFICATION No. 02/2004

Nagpur, the 20th January, 2004

S. O. 273.—Smt. R. A. Gadkari, Administrative Officer, Group 'B' Central Excise & Customs Commissionerate, Nagpur has retired voluntarily from Government Service in the forenoon of 11-12-2003.

[C. No. II(7)4/97/Estt. I]

R. K. VIG, Addl. Commissioner (P&V)

(राजस्व विभाग)

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 23 जनवरी, 2004

(आयकर)

का. आ. 274.—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा अधोलिखित संगठन को उसके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (I) के खंड (ii) के प्रयोजनार्थ "संस्था" श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :—

- (i) अधिसूचित संस्था अपने अनुसंधान कार्यकलापों के लिए अलग लेखा बहियों का रख-रखाव करेगी;
- (ii) अधिसूचित संस्था प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गति-विधियों की वार्षिक रिटर्न प्रत्येक 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग 'टेक्नोलॉजी भवन, न्यू महरोली रोड, नई दिल्ली-110016 को प्रस्तुत करेगी;
- (iii) अधिसूचित संस्था केन्द्र सरकार की तरफ से नामोद्दिष्ट निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के लिए अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों, जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के संबंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संगठन पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट) 10 मिडिलटन, रो, पांचवां तल, कलकता-700071, (ख) सचिव, वैज्ञानिक एवं

औद्योगिक अनुसंधान विभाग तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगी।

क्रम. सं.	अनुमोदित संगठन का नाम	अवधि जिसके लिए अधिसूचना प्रभावी है
1.	मैसर्स दि रिसर्च सोसाइटी फॉर दि केयर, ट्रीटमेंट एंड ट्रेनिंग ऑफ चिल्ड्रेन इन नीड ऑफ स्पेशल केयर, सेवरी हिल, सेवरी रोड, मुम्बई-400033	1-4-2001 से 31-3-2004

टिप्पणी :—अधिसूचित संस्था को सलाह दी जाती है कि वह अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएगी।

[अधिसूचना सं. 28/2004/फा. सं. 203/75/2003-आयकर नि. II]

संगीता गुप्ता, निदेशक (आयकर नि.- II)

(DEPARTMENT OF REVENUE)
CENTRAL BOARD OF DIRECT TAXES
 New Delhi, the 23rd January, 2004
(INCOME TAX)

S. O. 274.—It is hereby notified for general information that the organisation mentioned below has been approved by the Central Government for the period mentioned below, for the purpose of clause (ii) of Sub-section (1) of Section 35 of the Income Tax Act, 1961, read with Rule 6 of the Income Tax Rules, 1962 under the category "Institution" subject to the following conditions :—

- (i) The notified Institution shall maintain separate books of accounts for its research activities;
- (ii) The notified Institution shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research, 'Technology Bhawan', New Mehrauli Road, New Delhi—110016 for every financial year on or before 31st May of each year;
- (iii) The notified Institution shall submit, on behalf of the Central Government, to (a) the Director General of Income tax (Exemptions), 10 Middleton Row, 5th Floor, Calcutta-700071, (b) the Secretary, Department of Scientific & Industrial Research, and (c) the Commissioner of Income tax/Director of Income tax (Exemptions) having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income & Expenditure Account in respect of its research activities for which exemption was granted under Sub-section (1) of section 35 of Income tax Act, 1961 in addition to the return of income tax to the designated assessing officer.

Sl. No.	Name of the organisation approved	Period for which notification is effective
I.	M/s The Research Society for the Care, Treatment and Training of Children in need of Special Care, Sewri Hill, Sewri Road, Mumbai-400033	1-4-2001 to 31-3-2004

Notes : The notified Institution is advised to apply in triplicates as well in advance for renewal of the approval, to the Central Government through the Commissioner of Income Tax/Director of Income tax (Exemptions) having jurisdiction. Three copies of the application for renewal of approval shall also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 28/2004/F.No. 203/75/2003-ITA.II]

SANGEETA GUPTA, Director (ITA.II)

नई दिल्ली, 23 जनवरी, 2004

(आयकर)

का. आ. 275 .—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा अधोलिखित संगठन को उसके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (i) के खंड (iii) के प्रयोजनार्थ "संस्था" श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :—

- (i) अधिसूचित संस्था अपने अनुसंधान कार्यकलापों के लिए अलग लेखा बहियों का रख-रखाव करेगी;

- (ii) अधिसूचित संस्था प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गति-विधियों की वार्षिक रिटर्न प्रत्येक 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग, 'टेक्नोलॉजी भवन' न्यू महरोली रोड, नई दिल्ली-110016 को प्रस्तुत करेगी;
- (iii) अधिसूचित संस्था केन्द्र सरकार की तरफ से नामोद्दिष्ट निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के लिए अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों, जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के संबंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संगठन पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट) 10 मिडिलटन, रो, पांचवा तल, कलकत्ता-700071, (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग, तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगी।

क्रम. सं.	अनुमोदित संगठन का नाम	अवधि जिसके लिए अधिसूचना प्रभावी है
1.	मैसर्स जैन विश्व भारती, पोस्ट बॉक्स सं. 8, लाडनूँ-341306 (राजस्थान)	1-4-2003 से 31-3-2006

टिप्पणी :—अधिसूचित संघ को सलाह दी जाती है कि वह अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी।

[अधिसूचना सं. 29/2004/फा. सं. 203/113/2003-आयकर नि.-II]

संगीता गुप्ता, निदेशक (आयकर नि.- II)

New Delhi, the 23rd January, 2004

(INCOME TAX)

S.O. 275.—It is hereby notified for general information that the organisation mentioned below has been approved by the Central Government for the period mentioned below, for the purpose of clause (iii) of Sub-section (1) of Section 35 of the Income Tax Act, 1961, read with Rule 6 of the Income tax Rules, 1962 under the category "Institution" subject to the following conditions :—

- The notified Institution shall maintain separate books of account for its research activities;
- The notified Institution shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research 'Technology Bhawan', New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year;
- The notified Institution shall submit, on behalf of the Central Government, to (a) the Director General of Income tax (Exemptions), 10 Middleton Row, 5th Floor, Calcutta-700071, (b) the Secretary, Department of Scientific & Industrial Research, and (c) the Commissioner of Income tax/Director of Income tax (Exemptions) heaving jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income & Expenditure Account in respect of its research activities for which exemption was granted under Sub-section (1) of Section 35 of Income tax Act, 1961 in addition to the return of Income tax to the designated assessing officer.

Sl. No.	Name of the organisation approved	Period for which notification is effective
1.	M/s. Jain Vishva Bharati, Post Box No. 8, Ladnun-341306 (Rajasthan)	1-4-2003 to 31-3-2006

Notes : The notified Institution is advised to apply in triplicates as well in advance for renewal of the approval, to the Central Government through the Commissioner of Income tax/Director of Income Tax (Exemptions) having jurisdiction. Three copies of the application for renewal of approval shall also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 29/2004/F.No. 203/113/2003-ITA-II],

SANGEETA GUPTA, Director (ITA-II)

272 GI/04-2

नई दिल्ली, 23 जनवरी, 2004

(आयकर)

का. आ. 276.—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा अधोलिखित संगठन को उसके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ "संस्था" श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :—

- (i) अधिसूचित संस्था अपने अनुसंधान कार्यकलापों के लिए अलग लेखा बहियों का रख-रखाव करेगी;
- (ii) अधिसूचित संस्था प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गतिविधियों की वार्षिक रिटर्न प्रत्येक 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग, 'टेक्नोलॉजी भवन' न्यू महरोली रोड, दिल्ली-110016 को प्रस्तुत करेगी;
- (iii) अधिसूचित संस्था केन्द्र सरकार की तरफ से नामोदित निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के लिए अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों, जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के संबंध में आय एवं खर्च की लेखा परीक्षा की भी प्रति संगठन पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट) 10 मिडिल्टन, रो, पांचवां तल, कलकत्ता-700071 (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगी।

क्रम सं.	अनुमोदित संगठन का नाम	अवधि के लिए अधिसूचना प्रभावी है
1.	मैसर्स केलकर एजुकेशन ट्रस्ट, मार्फत एस.एच. केलकर एण्ड कंपनी लिमिटेड, लालबहादुर शास्त्री मार्ग, मुलुन्द (पश्चिमी) मुम्बई-400080	1-4-2001 से 31-3-2004

टिप्पणी :—अधिसूचित संस्था को सलाह दी जाती है कि वह अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी।

[अधिसूचना सं. 30/2004/फा. सं. 203/59/2002-आयकर नि. II]

संगीता गुप्ता, निदेशक (आयकर नि.- II)

New Delhi, the 23rd January, 2004

(INCOME TAX)

S.O. 276.—It is hereby notified for general information that the organisation mentioned below has been approved by the Central Government for the period mentioned below, for the purpose of clause (ii) of Sub-section (1) of Section 35 of the Income-Tax Act, 1961, read with Rule 6 of the Income-tax Rules, 1962 under the category "Institution" subject to the following conditions :—

- (i) The notified Institution shall maintain separate books of accounts for its research activities;
- (ii) The notified Institution shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific and Industrial Research, 'Technology Bhawan', New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year;
- (iii) The notified Institution shall submit, on behalf of the Central Government, to (a) the Director General of Income-tax (Exemptions), 10 Middleton Row, 5th Floor, Calcutta-700071, (b) the Secretary, Department of Scientific and Industrial Research, and (c) the Commissioner of Income Tax/Director of Income-Tax (Exemptions) having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income and Expenditure Account in respect of its research activities for which exemption was granted under Sub-section (1) of Section 35 of Income-tax Act, 1961 in addition to the return of income tax to the designated Assessing Officer.

Sl. No.	Name of the organisation approved	Period for which notification is effective
1.	M/s. Kelkar Education Trust C/o S. H. Kelkar & Co. Ltd., Lal Bahadur Shastri Marg, Mulund (West), Mumbai-400080	1-4-2001 to 31-3-2004

Notes : The notified Institution is advised to apply in triplicates as well in advance for renewal of the approval, to the Central Government through the Commissioner of Income Tax/Director of Income Tax (Exemptions) having jurisdiction. Three copies of the application for renewal of approval shall also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 30/2004/F.No. 203/59/2002-ITA.-II]

SANGEETA GUPTA, Director (ITA.-II)

नई दिल्ली, 30 जनवरी, 2004

का. आ. 277.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में राजस्व विभाग के अधीन केन्द्रीय उत्पाद एवं सीमा शुल्क बोर्ड के निम्नलिखित क्षेत्रीय कार्यालयों को, जिनके 80 प्रतिशत कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :—

- | | |
|---|---|
| 1. आयुक्त
केन्द्रीय उत्पाद एवं सीमा शुल्क (मुख्यालय)
जमशेदपुर | 2. आयुक्त
केन्द्रीय उत्पाद एवं सीमा शुल्क, जमशेदपुर-I प्रमण्डल,
जमशेदपुर। |
| 3. आयुक्त
केन्द्रीय उत्पाद एवं सीमा शुल्क जमशेदपुर-II प्रमण्डल,
जमशेदपुर | 4. आयुक्त
केन्द्रीय उत्पाद एवं सीमा शुल्क, जमशेदपुर-III प्रमण्डल,
जमशेदपुर। |
| 5. आयुक्त
केन्द्रीय उत्पाद एवं सीमा शुल्क जमशेदपुर-IV प्रमण्डल,
जमशेदपुर। | 6. आयुक्त
सीमा शुल्क (निवारक) शारदा हाउस,
पंचवटी के सामने बेड़ी बन्दर मार्ग, जामनगर (गुजरात)। |

[फ. सं. 11011/3/2002-हिन्दी-2]

स्नेह लता श्रीवास्तव, संयुक्त सचिव

New Delhi, the 30th January, 2004

S. O. 277.—It pursuance of sub-rule (4) of rule 10 of the Official Language (Use for Official Purposes of the Union) Rules, 1976 the Central Government hereby notifies the following offices under the Board of Central Excise & Customs, Department of Revenue the staff whereof have acquired the working knowledge of Hindi :—

- | | |
|---|--|
| 1. Commissioner, Central Excise & Customs (HQ),
Jamshedpur. | 2. Commissioner, Central Excise & Custom
Jamshedpur-I Division, Jamshedpur. |
| 3. Commissioner, Central Excise & Custom
Jamshedpur (II) Division, Jamshedpur. | 4. Commissioner, Central Excise & custom
Jamshedpur-III Division, Jamshedpur. |
| 5. Commissioner, Central Excise & Custom
Jamshedpur (IV) Division, Jamshedpur. | 6. Commissioner, (Preventive) Central Excise & Custom
Sharda House, Opp. Panchwati Beri Bander Marg,
Jamnagar (Gujarat). |

[F. No. 11011/3/2002-Hindi. 2]

SNEHLATA SHRIVASTVA, Jt. Secy.

वाणिज्य और उद्योग मंत्रालय

(वाणिज्य विभाग)

नई दिल्ली, 22 जनवरी, 2004

का. आ. 278.—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1964 के नियम 12 के उपनियम (2) के साथ पठित निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स जिओ-कैम लैबोरेट्रीईस प्राइवेट लिमिटेड जो जिओ कैम हाउस, 294, शहीद भगत सिंह रोड, फोर्ट, मुंबई-400001 में अवस्थित है, को मुंबई/नवी मुंबई पर निर्यात से पूर्व वाणिज्य मंत्रालय की अधिसूचना सं. का. आ. 3975 तारीख 20 दिसम्बर, और का.आ. 3978 तारीख 20 दिसम्बर, 1965 के साथ संलग्न अनुसूची में विनिर्दिष्ट खनिजों और अयस्कों, (ग्रुप-I) अर्थात् लौहा अयस्क, मैंगनीज अयस्क, फैरो मैंगनीज जिसके अन्तर्गत फैरो मैंगनीज धातुमल है, बाक्साइट जिसके अन्तर्गत कैलासाइट बाक्साइट भी है और खनिज और अयस्क (ग्रुप-II), अर्थात् मैंगनीज डाइआक्साइड क्रोम अयस्क जिसके अन्तर्गत क्रोम सान्द्र भी हैं, जिंक अयस्क जिसके अन्तर्गत जिंक सान्द्र भी है, मैंगनेसाइट, बेरासाइट, बेराइट्स, रेड आक्साइड, पीला ओकर, स्टेटाइट और कैंल्डस्पार के निरीक्षण हेतु निम्नलिखित शर्तों के अधीन एक अधिकरण के रूप में इस अधिसूचना के प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए मान्यता प्रदान करती है, अर्थात् :—

- (i) मैसर्स जिओ-कैम लैबोरेट्रीज प्राइवेट लिमिटेड, मुंबई, खनिज और अयस्क ग्रुप-I निर्यात (निरीक्षण नियम, 1965 के नियम 4 के अधीन और खनिज और अयस्क निर्यात निरीक्षण नियम, 1965 के नियम 4 के अधीन निरीक्षण प्रमाणपत्र देने के लिए उनके द्वारा अपनाई गई निरीक्षण पद्धति की जांच करने के लिए इस निमित्त निर्यात निरीक्षण परिषद् द्वारा नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं देगी।

- (ii) मैसर्स जिओ-कैम लैबोरेटरीज प्राइवेट लिमिटेड, मुंबई, इस अधिसूचना के अधीन अपने कृत्यों के पालन में निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1964 के नियम 12 के उप-नियम (1) के अधीन द्वारा समय-समय पर लिखित रूप में दिए गए निर्देशों से आबद्ध होगी।

[फा. सं. 5/4/2003-ईआई एंड ईपी]

राज सिंह, उप सचिव

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

New Delhi, the 22nd January, 2004

S. O. 278.—In exercise of the powers conferred by Sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognises for a period of three years, from the date of publication of this notification, M/s Geo-Chem Laboratories Private Limited located at Geo. Chem House, 294, Shahid Bhagat Singh Road, Fort, Mumbai-400001, as an agency for the inspection of Minerals and Ores (Group-I) namely, Iron Ore, Manganese Ore, Ferro manganese including Ferro Manganese slag, Bauxite, including Calcined Bauxite and Minerals and Ores (Group-II) namely, Manganese Dioxide, Chrome Ore including Chrome concentrates, Zinc Ores including zinc concentrates, Magnesite including dead burnt and calcined Magnesite, Barytes, Red Oxide, Yellow Ochre, Steatite and Feldspar, specified in the Schedule annexed to the Ministry of Commerce notification number S.O. 3975, dated 20th December 1965 and S.O. 3978 dated the 20th December, 1965 prior to export at Mumbai/Navi Mumbai, subject to the following conditions, namely :—

- (i) that M/s Geo-Chem Laboratories Private Limited, Mumbai shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in granting the certificate of inspection under rule 4 of the Export of Minerals and Ores Group I (Inspection) Rules, 1965 and under rules 4 of the Export of Minerals and Ores Group II (Inspection) Rules, 1965;
- (ii) that M/s Geo-Chem Laboratories Private Limited, Mumbai in the performance of their function under this notification shall be bound by such directives as may be given in writing from time to time under sub-rule (1) of rule (12) of the Export (Quality Control and Inspection) Rules, 1964.

[F.No. 5/4/2003-El&EP]

RAJ SINGH, Dy. Secy.

पोत परिवहन मंत्रालय

(नौवहन पक्ष)

नई दिल्ली, 27 जनवरी, 2004

का. आ. 279 .—राष्ट्रीय नौवहन बोर्ड नियमावली, 1960 के नियम 4 के साथ पठित वाणिज्यिक पोत परिवहन अधिनियम, 1958 (1958 का 44) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा सरकार, पोत परिवहन मंत्रालय (नौवहन पक्ष) की दिनांक 10 सितम्बर, 2003 की अधिसूचना सं.एस.एस.-18011/1/2003-एस.एल. में क्रम सं. 2 से 5 तक निम्नलिखित प्रविष्टियां की जाएंगी।

- “2 श्री प्रसन्ना आचार्य
संसद सदस्य (लोक सभा)
- 3 श्री पी.एस. गाधवी
संसद सदस्य (लोक सभा)
- 4 श्री विष्णु पांडा रे
संसद सदस्य (लोक सभा)
- 5 श्री कोडीकुनिल सुरेश
संसद सदस्य (लोक सभा)”

[फा.सं. एस.एस-18011/1/2003-एसएल]

वी.पी. राणा, अवर सचिव

MINISTRY OF SHIPPING

(Shipping Wing)

New Delhi, the 27th January, 2004

S.O. 279.—In exercise of the powers conferred by Section 4 of the Merchant Shipping Act, 1958 (44 of 1958) read with Rule 4 of the National Shipping Board Rules, 1960, the Government hereby makes the following entries against Sl.Nos. 2 & 5 in the Government of India, Ministry of Shipping (Shipping Wing's) notification No. SS-18011/1/2003-SL dated 10-9-2003

- "2. Shri Prasanna Acharya
M.P. (Lok Sabha)
3. Shri P.S. Gadhave
M.P. (Lok Sabha)
4. Shri Bishnu Pada Ray
M.P. (Lok Sabha)
5. Shri Kodikunnil Suresh
M.P. (Lok Sabha)"

[F.No. SS-18011/1/2003-SL]

V. P. RANA, Under Secy.

नई दिल्ली, 28 जनवरी, 2004

का. आ. 280.—राष्ट्रीय नौवहन बोर्ड नियमावली, 1960 के नियम 4 के साथ पठित वाणिज्यिक पोत परिवहन अधिनियम, 1958 (1958 का 44) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा सरकार, पोत परिवहन मंत्रालय (नौवहन पक्ष) को दिनांक 10 सितम्बर, 2003 की अधिसूचना सं.एस.एस.-18011/1/2003-एस.एल. में क्रम सं. 6 से 7 तक निम्नलिखित प्रविष्टियाँ की जाएंगी।

- "6 श्री ए.के. पटेल
संसद सदस्य (राज्य सभा)
7 श्री थेन्नाला जी. बालाकृष्णा पिल्लै
संसद सदस्य (राज्य सभा)"

[फा.सं. एस.एस-18011/1/2003-एसएल]

वी.पी. राणा, अवर सचिव

New Delhi, the 28th January, 2004

S. O. 280.—In exercise of the powers conferred by Section 4 of the Merchant Shipping Act, 1958 (44 of 1958) read with Rule 4 of the National Shipping Board Rules, 1960, the Government hereby makes the following entries against Sl.Nos. 6 & 7 in the Government of India, Ministry of Shipping (Shipping Wing's) notification No. SS-18011/1/2003-SL dated 10-9-2003

- "6. Shri A. K. Patel
M.P. (Rajya Sabha)
7. Shri Thennala G. Balakrishna Pillai
M.P. (Rajya Sabha)"

[F.No.SS-18011/1/2003-SL]

V. P. RANA, Under Secy.

विद्युत मंत्रालय

नई दिल्ली, 27 जनवरी, 2004

का. आ. 281.—विद्युत अधिनियम, 2003 (2003 का 36) की धारा 162 की उप-धारा 1 के अनुसरण में केन्द्र सरकार एतद्वारा श्री एस. पी. एस. गहलवार, मुख्य अभियंता, केन्द्रीय विद्युत प्राधिकरण को 9 जुलाई, 2003 से श्री पी. एस. अग्रवाल, मुख्य अभियंता के स्थान पर विद्युत निरीक्षक नामित करती है।

[फा.सं. 42/4/2001-आर एंड आर]

अजय शंकर, संयुक्त सचिव

MINISTRY OF POWER

New Delhi, the 27th January, 2004

S. O. 281.—In pursuance of Sub-section 1 of Section 162 of the Electricity Act, 2003 (36 of 2003), the Central Government is pleased to nominate Shri S.P.S. Gaharwar, Chief Engineer, Central Electricity Authority (CEA) as Electrical Inspector w.e.f. 9th July, 2003 vice Shri P.S. Agarwal, Chief Engineer.

[F. No. 42/4/2001-P&R]

AJAY SHANKAR, Jt. Secy.

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श्रम मंत्रालय

नई दिल्ली, 12 जनवरी, 2004

का. आ. 282.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस.सी.सी.एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद (संदर्भ संख्या एल.सी. आई. डी. सं. 163/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-1-2004 को प्राप्त हुआ था।

[सं. एल. 22013/1/2004-आई.आर. (सी-II)]

एन.पी. केशवन, डेस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 12th January, 2004

S.O. 282.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. L.C.I.D. No. 163/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of S.C.C.L. and their workmen which was received by the Central Government on 12-1-2004.

[No. L-22013/1/2004-IR (C-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD**

Present : Shri E. Ismail, B.Sc., L.L.B.,
Presiding Officer

Dated the 28th day of November, 2003

INDUSTRIAL DISPUTE L.C.I.D. No. 163/2002**Between**

Sri M. Ashok,
S/o M. Yellaiah,
H. No. 6-5-195, Saptagiri Colony,
Godavarikhani, Ramagundam,
Karimnagar District.

.... Petitioner

AND

1. The General Manager,
M/s. Singareni Collieries Co. Ltd.,
Ramagundam Area-1, 6-B,
Godavarikhani, Karimnagar District.

2. The Colliery Manager,
M/s. Singareni Collieries Co. Ltd.,
Ramagundam Area-1, 6-B,
Godavarikhani,
Karimnagar District.

.... Respondents

Appearances :

For the Petitioner : M/s. C. Niranjan Rao,
K. Guru Priya,
P. Srinivas Kumar &
Ishaq, Advocates.

For the Respondent : M/s. K. Srinivasa Murthy,
V. Umadevi & C. Vijaya
Shekar Reddy, Advocates.

AWARD

This is a case taken under Sec. 2A(2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief facts as mentioned in the petition are : That the Petitioner was appointed on 13-4-95 as badli filler and posted to work at Godavarikhani 6-B incline, Ramagundam area. Thereafter, confirmed in the service as coal filler in the year 2000. That he could not attend duties in the year 2000 for certain period due to ill-health and also due to injury caused by rivals and in the this process the Petitioner's physical condition was totally deteriorated. As a matter of fact the Petitioner was shifted to Hyderabad for better medical treatment. Hence, he was not regularized for his duties from January, 2000 to October, 2000. Again he met with a road accident on 20-11-2000 and sustained severe injuries to his head and as such he was immediately shifted to local hospital and thereafter he was shifted to Hyderabad for better medical treatment and then at Company's hospital at Godavarikhani. Therefore he could not attend during November and December, 2000 also. That he reported to duty on 11-12-2000 and the officials of Respondent Company have granted him leave on loss of pay basis and accordingly made an endorsement on the letter submitted by the Petitioner dated 11-12-2000. He was asked to produce fitness certificate from Company hospital. That the Petitioner has submitted the same and joined the duties. That the period of the absence of the Petitioner was accepted as leave without pay. That during January to October, 2000 the Petitioner has submitted the leave letter periodically.

3. He was issued with a charge sheet dated 15-1-2001 framing charges for unauthorized absence during January, 2000 to December, 2000. That he was remained absent for 250 days during the said period. The Petitioner gave an explanation letter dated 2-2-2001. Yet an enquiry was held on 23-2-2001 and the Enquiry Officer none other than the Deputy Personal Manager of the Respondent Company and the Respondent Company obtained signatures of the Petitioner on some printed matter without explaining the contents. Moreover no witnesses were examined in the enquiry and documents were marked. Now he states that one witness has been examined before the Enquiry Officer. Mr. V.A. Ranga Rao, clerk was

examined as sole Management witness. That the enquiry is not proper and hence vitiated. Further the Enquiry Officer not taken into consideration that he was granted leave on loss of pay on 11-12-2000. That a show cause notice was issued to him on 13-5-2001. He gave an explanation but the same was not considered and he was dismissed from 12-8-2001. He is the sole earning member, has two small children and old aged in-laws, all depending on him. Hence, he may be reinstated with continuity of service etc.

4. In the counter it is stated that the Petitioner was appointed on 13-4-95 in the Respondent Company as badli filler and posted to work at Godavarikhani 6-B incline and later on he was confirmed as coal filler with effect from 1-3-2000. That the Petitioner is a habitual absentee. He has worked for only 49 days in the calendar year 2000. That the Company has got full-fledged hospitals. He can get the treatment there. Workers are availing this opportunity as and when required. That the Petitioner was directed to Company hospital, but he reported for duty after long absenteeism. The averment of the Petitioner that the officials have granted leave on loss of pay is denied. Allowing the Petitioner is not a criterion to treat the absence period as leave. The Petitioner was absent without any leave application. That the enquiry was conducted properly. Further it is the Petitioner who has leave to his credit, the same against it automatically without prior permission for sanction by the competent authority. That chronic absenteeism need not be condoned as held by the Hon'ble Supreme Court in State of U.P. and others vs. Ashok Kumar Singh and another in 1996 (1) SCC page 302. It is therefore prayed that it is a grave charge and hence the Petitioner is not entitled for any relief.

5. A memo was filed stating that the domestic enquiry is validly conducted. Hence, arguments heard under Sec. 11A whether the punishment imposed is justified or not. The only point for consideration is whether the Petitioner is entitled for any relief by modifying the punishment of dismissal.

6. The Learned Counsel for the Petitioner argues that the Petitioner was appointed as badli filler on 13-4-95 and posted to work at Godavarikhani, 6-B incline, Ramagundam. That he could not attend to his duties due to medical treatment from January to October, 2000. Again he met with a road accident on 20-11-2000 and he reported to duty on 11-12-2000. The Company granted him leave on loss of pay and made an endorsement dated 11-12-2000. He was asked to produce fitness certificate from Company hospital. The Petitioner submitted the same. His absence was accepted as leave without pay. That a chargesheet was issued for unauthorized absence from January, 2000 to December, 2000. That his absence was not without any cause. The punishment of dismissal is too harsh. Hence, the punishment may be modified and the Petitioner may be given a chance to prove his worth.

7. The Learned Counsel for the Respondent argued that this is a mine and if such workers remain absent for one year without any reason work would obstruct and here even according to the Petitioner he had an accident on 20-11-2000. But what was the reason for his absence from January, 2000 to November, 2000? That the sympathy if shown to such workers would hamper the work of the collieries. Hence, the Petitioner deserves no relief under Sec. 11A.

8. It may be noted that the Petitioner was appointed as a badli filler on 13-4-95. He worked for 5 years 8 months and remained absent for one year continuously. The reasons given by him does not appear to be just, but after all, the quality of mercy is not strained and he was not occupying any big post and only as a badli filler. Hence, I am of the opinion that the ends of justice would be met if he is appointed as a badli filler on minimum starting pay scale on or before 1st February, 2004 and if he puts in minimum muster rolls for three consecutive years then only he may be considered for regularization.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 28th day of November, 2003.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined
for the Petitioner
NIL

Witnesses examined for the
Respondent
NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 12 जनवरी, 2004

का. आ. 283.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस.सी.सी.एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद (संदर्भ संख्या एल.सी. आई. डी. सं. 97/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-1-2004 को प्राप्त हुआ था।

[सं. एल. 22013/1/2004-आई.आर. (सी-II)]

एन.पी. केशवन, डैस्क अधिकारी

New Delhi, the 12th January, 2004

S.O. 283.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. L.C.I.D. No. 97/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the

Annexure in the Industrial Dispute between the employers in relation to the management of S.C.C.L. and their workman, which was received by the Central Government on 12-1-2004.

[No. L-22013/1/2004-IR (C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Shri E. Ismail, B.Sc., LL.B.,
Presiding Officer

Dated the 28th day of November, 2003

INDUSTRIAL DISPUTE L.C.I.D. No. 97/2002

Between

Sri Kathuri Mallaiah,
S/o Pochaiah,
R/o 8th Incline Colony, ...Petitioner
Godavarikhani,
Karimnagar District.

AND

The General Manager,
The Singareni Collieries Co. Ltd.,
Srirampur (Projects) Area,
Adilabad District.Respondent

Appearances :

For the Petitioner : M/s. A.K. Jayaprakash Rao,
K. Srinivas Rao, P. Sudha,
T. Bal Reddy, K. Ajay Kumar,
M. Govind & N. Sanjay,
Advocates

For the Respondent : M/s. K. Srinivasa Murthy,
V. Umadevi & C. Vijaya
Shekar Reddy, Advocates

AWARD

This is a case taken under Sec. 2A(2) of the I.D. Act, 1947 in view of the judgement of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief facts as mentioned in the petitione are : That the Petitioner was appointed as badli filler in the year 1979 and promoted as coal filler in the year 1981 and further promoted as general mazdoor on 11-9-96. He was dismissed on 27-1-2001. The dismissal is disproportionate. He was issued with a charge sheet dated 7-4-2000 for which he has submitted an explanation and enquiry was ordered. The enquiry was conducted in English and he being an illiterate person could not understand the same. That the Petitioner was removed because he was absent from duty during the period from 1997-1999. The Petitioner gave an explanation that he could

not attend due to Jaundice, Piles and hence, the absence was neither willful nor wanton. Hence, the dismissal order dated 27-1-2001 may be set aside and the Petitioner may be directed to be reinstated with continuity of service with back wages etc.

3. In the counter it is averred that the Petitioner was appointed in the Respondent Company as badli coal filler on 31-5-79 and subsequently regularized as coal filler, later on promoted as general mazdoor with effect from 1995. That the Petitioner was very regular in his services and has put in only 19 musters during the year 1999. As such he was issued a charge sheet for his habitual absence during the year 1999. He gave explanation dated 8-4-2000 which was not satisfactory as such an enquiry was conducted and he was dismissed. That the enquiry was conducted with all fairness and the evidence placed before the Enquiry Officer and the voluntary admissions of the Petitioner who was found guilty of the charges.

4. The Petitioner was called for counseling on 26-9-2000 and he gave an assurance that he would put in not less than 20 musters a month, but he has put in only 15, 7 and 19 musters in October, November and December respectively. In 1997 he has put in 152 musters, in 1998 has put in 126 musters, in 1999 he has put in 19 musters and in 2000, 56 musters. Hence, he is not entitled for any relief.

5. Arguments were advanced on the validity of domestic enquiry and this Court by a detailed order dated 31-3-2003 held that the domestic enquiry is validly conducted. Then another IA No. 34/2003 was filed calling for certain documents. Accordingly, the following documents were called for : (a) office letter dated 10/13-4-2000, reference No. CNR/2K/2.16/776, (b) H-Register of leave account for the period of the year 1999 and 1998 and (c) Attendance Register in Form-C for the period of the year 1997, 1998, 1999 and 2000.

6. It is argued by the Learned Counsel for the Petitioner that there are no charges for 1997, 1998 or 2000. But the charge sheet pertains to the year 1999. He could not attend because he was suffering from Piles and Jaundice and he was working from 1979. So his 21 years of service cannot be brushed aside and abandonment is not to be taken lightly. He relied on 1999 1 CLR page 1014 wherein their Lordships of the Supreme Court, where there was unauthorized absence of one week, and he was punished by dismissal, their Lordships held that the punishment is grossly disproportionate and substituted it with reinstatement with 50% back wages. He also relied on 2003 LAB. I. C. Page 19 where in the Bombay High Court held that employee absent from duty for 38 days without leave, punishment of dismissal is shockingly disproportionate. He also relied on 2001 1 LLJ where the workman was granted 2.5 lakhs instead of directing reinstatement. So he submits that the Petitioner may be reinstated.

7. It is argued by the Learned Counsel for the Respondent that it is an important industry and the rate

of absenteeism is highly alarming. No doubt, the Petitioner says he was suffering with Piles and Jaundice yet his previous record is also not a happy one. When we see 1997, 1998 and 2000 and not only that he was given a counseling and not directly dismissed and he gave an undertaking that he will put in attendance minimum 20 musters in a month. He gave that undertaking on 26-9-2000 and he could not even put 20 musters in a month for three consecutive months. He has put in only 15, 17 and 19 musters for October, November and December respectively. Hence, he does not deserve any sympathy and any sympathy shown to him would be misplaced sympathy.

8. It may be seen that all the chances were given to him and he was absent for two years. That the domestic enquiry was held valid by this Court by order dated 31-3-2003. It may be seen that no doubt, the Petitioner might have been working from the year 1979 and promoted as a general mazdoor after being promoted as a coal filler on 11-9-96 and unfortunately the moment he was as a general mazdoor posted his attendance became dismal. In 1997 his attendance was only 152 days, in 1998 for 126 days and in 1999 for which the charge sheet was made is only 19 days and in 2000 only 56 days was his attendance and it is not as if the Respondent directly dismissed him but in fact he was called for counseling on 26-9-2000. He gave assurance that he will put not less than 20 musters for October, November and December, but unfortunately, he put only 15, 17 and 19 musters. I am of the opinion that directing reinstatement of such persons would be not justified. But however seeing that he has been working from the year 1979 and he has been dismissed vide Ex. M7 from 27-1-2001 and I am of the opinion that the ends of justice would be met if the punishment is interfered under Sec. 11A and dismissal order dated 27-1-2001 is modified into one of compulsory retirement on 27-1-2001.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her, corrected and pronounced by me on this the 28th day of November, 2003.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

Ex. M1	: Copy of charge sheet dt. 7-4-2000
Ex. M2	: Copy of explanation to Ex. M1 dt. 8-4-2000
Ex. M3	: Copy of enquiry proceedings
Ex. M4	: Copy of enquiry report dt. 24-7-2000

Ex. M5	: Copy of Lr. No. CNR/2k/2.15/1808 dt. 3-8-2000
Ex. M6	: Copy of representation for Ex. M5 dt. 21-8-2000
Ex. M7	: Copy of dismissal order dt. 27-1-2001.

नई दिल्ली, 12 जनवरी, 2004

का. आ. 284.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस.सी.सी.एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद (संदर्भ संख्या एल.सी. आई. डी. सं. 74/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-1-2004 को प्राप्त हुआ था।

[सं.-एल.-22013/1/2004-आईआर (सी-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 12th January, 2004

S.O. 284.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. L.C.I.D. No. 74/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of S.C.C.L. and their workmen which was received by the Central Government on 12-1-2004.

[No. L-22013/1/2004-IR (C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Shri E. Ismail, B.Sc., LL.B.,
Presiding Officer

Dated the 17th day of November, 2003

INDUSTRIAL DISPUTE L.C.I.D No. 74/2003

Between :

Sri Mandala Shankar Goud,
S/o Malla Goud,
R/o Post Nambal,
(M) Rebbanna, District Adilabad.

... Petitioner

And

1. The General Manager,
Singareni Collieries Co. Ltd.,
Ballampalli.
2. The General Manager,
Personal, Kothagudem.
Post : Kothagudem.
3. The Managing Director (Administration)
Singareni Collieries Co. Ltd.,
Kothagudem.
Post : Kothagudem.

... Respondents

272 GI/04-4

Appearances :

For the Petitioner : Sri S. Bhagawanth Rao,
Advocate

For the Respondent : M/s. K. Srinivasa Murthy,
C. Vijaya Shekar Reddy
& B.V.L. Vani, Advocates

AWARD

This is a case taken under Sec. 2A(2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. That the petitioner was appointed as badli filler on 15-10-86 in Goleti 1 in Adilabad District. Afterwards he was given surface work on 28-6-87 in open cast 'badli worker' upto 1990 by calling him as general mazdoor. The Petitioner was not given any underground work right from 28-6-87 to 31-12-90. The work of the Petitioner is on surface of the mine. The Petitioner was also promoted as surface category II from 1-1-99. The Respondent No. 1 terminated the services of the Petitioner orally on 6-11-2002. That the Petitioner's health was not good from 1-2-2002 to 20-1-2002 and the Petitioner submitted medical certificates but the certificates were not considered and terminated the services of the Petitioner on 6-11-2002.

3. That the Petitioner was not issued charge sheet, charge memo and violated the provisions of the Sec. 25F of the I.D. Act. The Petitioner is a bona fide employee of the Respondent for more than 16 years. Non-availability of services of workman for any reason what soever, may amount to retrenchment. All these problems arose because of his seeking mutual transfer from Yellandu to Goleti mine. Where he was working as general mazdoor at Yellandu. But yet he has taken charge as at Goleti. The Petitioner was provided surface work initially and thereafter the Colliery Manager asked the Petitioner to go down under mine to get coal. The Petitioner is neither a coal filler nor a coal lifter in a mine. The health condition of the Petitioner does not permit him to undergo the mine. He requested to provide surface work. Yet, the Petitioner discharge for 6 months underground work and by that time due to suffocation the Petitioner became a patient of Asthama, Excess of Eosinophiles as the atmosphere is absolutely polluted. He sent an application to the 2nd Respondent through the union dated 7-7-2000 to provide surface work to the Petitioner but yet he was asked to go underground. Hence, the oral termination is invalid and he may be reinstated with all benefits.

4. The jurisdiction was challenged and the Petitioner was taken in view of the Judgement of U. Chinnappa Vs. Cotton Corporation of India as cited in the 1st paragraph of this award. It is further stated in the counter that the Petitioner is absenting himself from October, 2001 and he is still continuing on the rolls. Hence, the petition may be

dismissed. That it was held by Division Bench of the Hon'ble High Court in WA No. 2030 of 1999, that the general Mazdoor can be deployed for any work suitable with the administration and in need of it and the worker cannot claim his choice of work as a right unless it is the condition of service that they will perform a particular job only. The petitioners cannot claim that they are entitled to work as general mazdoor, surface only. Hence, this petition has to be dismissed.

5. This workman was empanelled as Floating Badli Filler at Goleti 1 incline with effect from 11-10-1986. Later on he was transferred to open cast project, Bellampalli on 28-6-87 and subsequently absorbed as general mazdoor category I with effect from 1-7-90. Later on he was upgraded as category II with effect from 1-1-99. It is submitted that the Petitioner is on the rolls of the Respondent and the Petitioner is willfully absenting from service from October, 2001 till date on his own accord without any representation or prior permission from the competent authority. The Petitioner was relieved on transfer vide office order dated 4-6-2001 and he reported to General Manager Bellampalli on 12-6-2001. He was directed to report to Superintendent of Mines, Goleti-2 incline vide order dated 13/14-6-2001 and thereafter he was asked to work underground. The Petitioner expressed his unwillingness to work underground vide representation dated 18-8-2001 and requested for cancellation of the mutual transfer order. He gave an application on 21-9-2001 expressing his willingness to work underground and based on that he has been transferred to Bellampalli. That he was posted to work at Shantikhani as general mazdoor and he reported for duty on 5-10-2001. That the attendance particulars of the Petitioner are :

Year	Month	No. of musters put in by the Petitioner
2001	October	19
2001	November	16
2001	December	15
2002	January	12
2002	Feb. to June	Nil
2002	July	6
2002	August	1
2002	Sept. to Dec.	Nil
2003	Jan. to March	Nil

Hence, the petition may be dismissed.

6. It is argued by the Learned Counsel for the Petitioner that he has been orally terminated from 6-11-2002. That Singareni Collieries Co. Ltd., union also have represented on 7-7-2001 that he should be given surface work. But to no avail. Hence, not providing him any work, amounts to retrenchment. Hence, the

Respondent may be directed to reinstate him with full back wages and all attendant benefits.

6. The Counsel for the Respondent argues that the Petitioner gave an application on 21-9-2001 wherein he has expressed his willingness to work in the underground and based on his willingness he has been transferred to Bellampalli and his attendance was very dismal from February to June, which was nil, in July 6 days, August-1 day and from September to December-nil and in 2003 also nil and he has now filed this petition stating that he has been dismissed. How can he be dismissed orally when he has worked from 1987? Hence, the petition is misconceived and it may be dismissed.

7. It may be seen that although the Petitioner claims to have suffered from Esnophiles and Asthama and all that and he has filed certain documents also which were not marked showing that he was having Asthamatic Esnophilia given by some private Doctor. Actually he has not been dismissed. He himself has abandoned work and perhaps came as a precautionary measure to this Court. There is no proof that he has been reporting to the duty and no work is given to him. However taken into consideration that no work has been given to him if the averments of the Petitioner are correct, hence, the Respondent is directed to provide work to the Petitioner as general mazdoor after he represents by giving it in writing that he will work wherever he is asked to work whether underground or on surface to the Superintendent of Mines, Goleti-2 incline on or before 31st December, 2003 and the Respondent shall provide work to him and the Petitioner absented for all this period that from September, 2002 to 31 January, 2003 shall be taken as leave without pay. The Company shall provide him work on or before 1-2-2004 failing which he will be entitled to last drawn wages from 1-2-2004. However, the Petitioner shall put in minimum muster rolls for three consecutive years failing which appropriate action may be taken against the Petitioner.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her, corrected and pronounced by me on this the 17th day of November, 2003.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 12 जनवरी, 2004

का. आ. 285.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस.सी.सी.एल. प्रबंधन के

संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद (संदर्भ संख्या एल.सी. आई. डी. सं. 15/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-1-2004 को प्राप्त हुआ था।

[सं. एल. 22013/1/2004-आई.आर. (सी-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 12th January, 2004

S.O. 285.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. L.C.I.D. No. 15/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers relation to the management of S.C.C.L. and their workmen, which was received by the Central Government on 12-1-2004.

[No. L-22013/1/2004-IR (C-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Shri E. Ismail, B.Sc., L.L.B.,
Presiding Officer.

Dated the 2nd day of December, 2003

INDUSTRIAL DISPUTE L.C.I.D. No. 15/2001

Between

Sri G. Rama Rao,
S/o Venkata Ratnam,
R/o SD-427, J.K. Colony,
Yellandu. Dist. Khammam

.... Petitioner

AND

The Chief General Manager (Projects)
The Singareni Collieries Co. Ltd.,
Yellandu Area,
Yellandu Post- 507123.

.... Respondents

Appearances :

For the Petitioner : M/s. S. Venkateswara Rao,
and I. Shashi Kumar
Advocates

For the Respondent : M/s. J. Parthasarathy,
V. Hari Haran and
A. Chandrasekhar,
Advocates

AWARD

This is a case taken under Sec. 2A(2) of the I.D. Act, 1947 in view of the judgement of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief fact as stated in the petition are: That the Petitioner was appointed as Operator trainee to under go training at Technical Training Institute, Manuguru. He

has completed 6 months training. He was appointed. Promoted to grade 'C' with effect from 6-3-91. The he obtained a driving license in 1981 from RTO, Hyderabad through an agent. The Petitioner's license was also entered into employment exchange in the year 1985. He had no doubt about the genuineness of the license. He was renewed also. While he was working as such he was issued with show cause notice dated 21-6-95 proposing to rescind the driving license and it is a bogus one. He filed Writ Petition. The Writ Petition was disposed off by an order dated 26-7-95. There after the Petitioner was issued with memo. An enquiry was held and he was ultimately dismissed on 10-7-2000. He may be directed to be reinstated with continuity of service and all other attendant benefits. That in a similar case one Mr. Neelam Samayya whose driving license was found bogus was continued on production of fresh driving license.

3. In the counter it was stated that his driving license was found to be bogus and enquiry was conducted following all the natural principles of justice he was dismissed. The case of Sri Samayya is different. He was appointed as badli filler and subsequently selected as EP operator and when his license was found bogus he was sent back as badli filler lie he obtained valid driving license and applied for the post of EP operator. Hence, he was given.

4. Arguments were heard about the validity of domestic enquiry and this court by its order dated 29-4-2002 held that the enquiry is valid. Arguments were heard under Sec. 11A.

5. The learned Counsel for the Petitioner argued that the Petitioner had obtained a fresh driving license as far back as on 14-9-95 and in fact he was dismissed in 2000. So he was having valid license on 14-9-95 and he was operating till 2000. There is no allegation of any accident against him and in view of 1999 (5) ALD page 52 wherein it was a case of a RTC driver where also he was removed from service, that he entered employment by producing a false driving license. The Industrial Tribunal set aside the removal order on the ground that he has obtained a valid driving license and he was directed to be appointed as a fresh candidate. The Hon'ble High Court refused to interfere with the finding of the Tribunal.

6. It is argued by the Learned counsel for the Respondent that he has obtained a fake license and secured employment on the basis of a fake driving license. He can not now turn down and say that he has got a fresh license when no such plea was taken even in the enquiry and now he has filed a Xerox before the Court. hence, he may not be reinstated.

7. It is unfortunate that no mention is made about the fresh driving license alleged to be genuine obtained by him on 14-9-95 from Khammam and in view of the judgement of the Hon'ble High Court where the Hon'ble High Court refused to interfere with the findings of the Industrial Tribunal where it was a case of RTC driver. Hence,

I hold that the following award will meet the ends of justice. "The Petitioner is directed to file his original driving license dated 14-9-95 on or before 31st January, 2004 before the Respondent who shall enquire into it whether the fresh license is genuine and the Respondent shall enquire into the same whether it is genuine by 30th April, 2004 and if the said license is found genuine he shall be appointed as a fresh EP operator on or before 1st May, 2004. If this license is also found to be fake he need not be appointed. Further it if is found genuine he shall be appointed as a fresh candidate ignoring his past service for all purposes including terminal benefits. If the license is found genuine and if the Petitioner files the original license on or before 31st January, 2004 then all the exercise should be completed and he should appoint on or before 1st May, 2004 failing which he shall be entitled for the last pay drawn monthly wages from 1-5-2004.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 2nd day of December, 2003.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 12 जनवरी, 2004

का. आ. 286.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, एस.सी.सी.एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद (संदर्भ संख्या 254/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-1-2004 को प्राप्त हुआ था।

[सं. एल. 22012/43/2001-आई.आर. (सी एम-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 12th January, 2004

S.O. 286.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 254/2001) of the Central Government Industrial Tribunal-cum-Labour court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of M/s Singareni Collieries Co. Ltd. and their workmen, received by the Central Government on 12-1-2004.

[No. L-22012/43/2001-IR (CM-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD**

Present : Shri E. Ismail, B.Sc., LL.B.,
Presiding Officer

Dated the 6th day of November, 2003

INDUSTRIAL DISPUTE No. 254/2001

Between

The Vice President,
Central Council,
Singareni Collieries Workers Union (AITUC)
Qtr. No. D-152, CCC Township, C.C.C.
Andhra Pradesh- 504302 Petitioner

AND

The General Manager,
M/s Singareni Collieries Co. Ltd.,
Mandamarri Division,
Mandamarri-504231 Respondent

Appearances :

For the Petitioner : Sri K. Laxman, Advocate
For the Respondent : M/s J. Parthasarathi and
A. Chandra Sekhar,
Advocates

AWARD

The Government of India, Ministry of Labour by its Order No. L-22012/42/2003-IR (CM.II) dated the 19-11-2001 referred the following dispute under Section 10(1) (d) of the I.D. Act, 1947 for adjudication to this tribunal between the management of M/s Singareni Collieries Co. Ltd. and their workman. The reference is,

SCHEDULE

"Whether the action of the management of M/s Singareni Collieries Co. Ltd., Mandamarri in ordering for underground General Mazdoor duty in respect of Sh. T. Laxman Singh, General Mazdoor of KK 5 Incline, who is fit only for surface duty as per initial medical examination legal and justified? If not, to what relief the workman is entitled to?"

The reference is numbered in this Tribunal as I.D No. 254/2001 and notices were issued to the parties.

2. In spite of several adjournments given from 24-3-2003 for evidence of the Petitioner for 12 adjournments including 6-11-2003 the petitioner has not turned up nor evincing any interest. In spite of number of adjournments the petitioner has failed to produce any evidence in support of his claim. There is nothing on record to support his claim. Therefore, the reference is ordered against the petitioner and it is held that the petitioner is not entitled for any relief.

Accordingly a 'Nil' Award is passed, Transmit.

(Dictated to Kum. K. Phani gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 6th November, 2003).

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for
the Petitioner
NIL

Witnesses examined for the
Respondent
NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 12 जनवरी, 2004

का. आ. 287.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, दूरदर्शन मेन्टेनेंस सेन्टर प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चैन्सई (संदर्भ संख्या 46/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-1-2004 को प्राप्त हुआ था।

[सं. एल. 42012/111/2001-आई.आर. (सीएम-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 12th January, 2004

S.O. 287.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 46/2002 of the Central Government Industrial Tribunal-cum-Labour, Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Doordarshan Maintenance Centre, and their workmen, received by the Central Government on 12-1-2004.

[No. L-42012/111/2001-IR (CM-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, CHENNAI**

Monday, the 22nd December, 2003

Present : K. JAYARAMAN
Presiding Officer

INDUSTRIAL DISPUTE No. 46/2002

(In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial disputes Act, 1947 (14 of 1947), between the Management of Doordarshan Maintenance Central and their workman)

Between

Sri P. Malaikannan

: 1 Party/Workman

And

1. The Station Engineer,
Doordarshan Maintenance
Centre, Salem.

: II Party/Management

2. The Chief Engineer, South Zone,
All India Radio & Television, Chennai.

Appearance :

For the Petitioner : M/s S. Ayyathurai
K. Varatharasan &
Arul Simi, Advocates
For the Mangament : Mr. K.M. Venugopal,
ACGSC

AWARD

The Central Government, Ministry of Labour vide Notification Order No. L-42012/111/2001-IR(CM-II) dated 15-05-2002 has referred the following dispute to this Tribunal for adjudication :—

“Whether the action of the management of Television Relay Centre, Vazhapadi in terminating the services of the workman Shri. P Malaikannan is legal and Justified? If not, what relief he is entitled to?”

2. After the receipt of the reference, it was taken on file as I.D. No. 46/2002 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their respective claim statement and Counter Statement.

3. The Petitioner alleged in the Claim Statement that he has been appointed as maintenance cum cleaning cum security for very low power transmitter in the Television Relay Centre owned by the Respondent at Vazhapadi on 15-3-96 and at the beginning he was paid a consolidated wage of Rs. 900/- per month and from 1-11-1998 his salary was increased to Rs. 1050/- per month. The Petitioner has completed more than two years of continuous service and he started requesting first respondent for grant of permanent status. Since he has not received any positive response, he has approached the Assistant Labour Commissioner (Central) Chennai for relief. On coming to know of this, the first respondent orally terminated the services of the Petitioner on 24-3-2000. The work which the Petitioner was denied is permanent nature and therefore, his services cannot be called as contract for service. The termination of the services of Petitioner amounts to retrenchment and the respondent has not complied with the mandatory provisions of Section 25F of the Act and therefore, the termination is illegal, void and unjust. Hence, he prays that an award may be passed in his favour.

4. As against this the Respondent in Counter Statement contended that the Petitioner was not appointed in a permanent vacancy. His appointment was only a temporary one and therefore there is no question of continuity of service and since the temporary need had not continued, his services had been close. The 1Party cannot enter from the back side of the door by illegal manner to entre in service by-passing other citizens. The temporary opportunity given to the Petitioner cannot be

misused to the extent of compelling the opposite party to give a permanent job. Therefore, the Industrial Disputes Act will not applicable to this case. Hence, the Respondent prays that the claim may be dismissed with costs.

5. Point for may consideration is—

“Whether the Petitioner is entitled to any relief as claimed in this dispute?”

Point :—

6. After filing of the Claim Statement, this case was posted for enquiry for several hearings and in none of these hearing the Petitioner appeared. This Petitioner's counsel has got several adjournments, but the Petitioner never turned up. Finally, the case was posted for enquiry on 20-11-2003. Even on that date also, the I Party did not turn up. Therefore, the I Party was set ex-part and the second party was asked to file proof of affidavit with regard to their claim.

7. The Respondent Station Engineer, Doordarshan Maintenance Centre at Salem has given the proof of affidavit. He has stated in his affidavit that by letter No. SLM-25(10)95A1/392 dated 21/22-03-96 approved the quotation of the petitioner for maintenance, clearing, security duty of the very low power T.V. Relay Centre at Vazhapadi for the period from 15-3-96 to 14-3-97 with certain conditions. The said document is marked as Ex. M1 and in term of the contract, the service of the Petitioner was terminated and the same was communicated to him on 28-4-2004. Copy of the said letter is Ex. M2. Even the petition filed by the Petitioner before State Human Rights Commission was negatived, since there was no sanctioned post in the respondent/management. The copy of the letter is Ex. M3. The Petitioner has never worked continuously in the respondent/management. The copies of vouchers given to the Petitioner are marked as Ex. M4. Since the Petitioner was employed as temporary maintenance man his services had been terminated and it was not a continuous one. As per Ex. M4, the Petitioner worked from 15-3-96 to 9-11-96 intermittently as per need and so the Petitioner is not entitled to any relief as claimed for.

8. After hearing the Respondent's advocate, I find the Petitioner has not produced any document to show that he has worked continuously for a period of three years and his post is a continuous one. From the documents produced by the Respondent, it is clear that the Petitioner has worked intermittently on need basis. Therefore, I find the Petitioner Sri P. Malaikannan is not entitled to any relief as claimed for. No Costs.

9. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 22nd December, 2003.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :—

On either side : None

Documents Marked :—

For the I Party/Workman : Nil

For the II Party/Management :

Ex. No.	Date	Description
M1	22-03-96	Xerox copy of the quotation
M2	28-04-2000	Xerox copy of the advocate notice.
M3	15-11-99	Xerox copy of the order passed by State Human Rights Commission.
M4	Nil	Xerox copy of the wage receipts.
M5	Nil	Xerox copy of statement showing different persons worked in the same work.

नई दिल्ली, 12 जनवरी, 2004

का. आ. 288.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कोचीन रिफायनरी लि. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार लेबर कोर्ट, एर्नाकुलम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-1-2004 को प्राप्त हुआ था।

[सं. एल. 30012/53/98-आईआर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 12th January, 2004

S.O. 288.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Labour Court, Ernakulam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Cochin Refineries Ltd. and their workmen, which was received by the Central Government on 9-1-2004.

[No. L-30012/53/98-IR (C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT LABOUR COURT, ERNAKULAM

(IN THE LABOUR COURT, ERNAKULAM)

(Wednesday, the 22nd day of October, 2003)

Present :

Smt. N. Thulasi Bai, B.A.L.L.B., Presiding Officer
INDUSTRIAL DISPUTE No. 28 of 1999 (Central)

Between

The General Manager, Cochin Refineries Limited,
Ambalamughal**And**

The workman of the above concern represented by the
General Secretary, Cochin Refineries Employees
Association, Ambalamughal.

Representations :

M/s. Menion & Pai

Advocate,

Ernakulam.

.. For Management

Sri. Ajith Parkash,

Advocate,

Ernakulam.

.. For Union

AWARD

This reference was made by the Central Government, as per order No. L-30012/53/98 IR (C.I.) dated 21-04-99. The dispute is between the management of Cochin Refineries Limited and its employee Sri P. C. Thomas. The dispute referred is :

"Whether the denial of promotion of Shri P. C. Thomas from General Crafts Man Gr. VI to grade VII Senior Craftsman by the management of CRL is justified? It not what relief the workman is entitled to?"

1. In the reference the management is represented by the General Manager (HRM), Cochin Refineries Limited Ambalamughal and the workman is represented by the General Secretary, Cochin Refineries Employees Association.

2. On receipt of notices issued from this court the union and management appeared through counsel.

3. The union filed a claim statement and the management filed a written statement raising their respective pleadings. There after no rejoinder was filed and the case was pending for adducing evidence. For the last 2 posting the union representative and the counsel were absent through the management's counsel was present. Today when the case was called union witness was not present and the counsel made an application which was rejected by this court as more than sufficient time was given to the union to adduce evidence. The management's counsel was present. In the above circumstances I am satisfied that the union is not interested in prosecuting the reference thereby an award can be passed finding that there exists no industrial dispute at present to be adjudicated by this court.

In the result an award is passed finding that there exists no industrial dispute at present to be adjudicated by this court.

This award will take effect one month after its publication in the Official Gazette.

(Dictated to the Confidential Assistant, transcribed and typed out by her, corrected by me and passed this the 22nd day of October, 2003.)

ERNAKULAM N. THULASI BAI, Presiding Officer

नई दिल्ली, 12 जनवरी, 2004

AWARD

का.आ. 289.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केनरा बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ संख्या 43/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-1-2004 को प्राप्त हुआ था।

[सं. एल. 12012/11/2002-आईआर-(बी-II)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 12th January, 2004

S.O. 289.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 43/2002 of the Central Govt. Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of Canara Bank and their workmen, received by the Central Government on 12-1-2004.

[No. L-12012/11/2002-IR(B-II)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI

Monday, the 29th December, 2003

Present : K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 43/2002

(In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Canara Bank and their workman)

BETWEEN

Sri S. Namasivayam : I Party/Workman

And

The Deputy General Manager, : II Party/Management
Canara Bank, Circle Officer,
Madurai.

APPEARANCE:

For the Petitioner : M/s. Balan Haridas &
R. Kamatchi Sundaresan,
Advocates.

For the Management : Mr. T.R. Sathiyamohan,
Advocates.

The Central Government, Ministry of Labour vide Notification Order No. L. 12012/11/2002-IR(B-II) dated 29-04-2002 has referred the following dispute to this Tribunal for adjudication :—

“Whether the action of the management of Canara Bank in giving punishment of Compulsory Retirement to Shir S. Namasivayam from service vide order dated 30-9-97 is legal and justified? If not what relief the concerned workman is entitled to?”

2. After the receipt of the reference, it was taken on file as I.D.No. 43/2002 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegation in the Claim Statement of the Petitioner are briefly as follows :—

The Petitioner joined the services of the Respondent/Bank as a sub-staff during 1977 and subsequently, he was promoted as a Clerk. He has served 22 years in the Respondent/Bank. While so, he was served with charge sheet dated 7-5-96 alleging some misconducts. The allegations in the charge sheets are that the Petitioner has deliberately detained six cheques in collusion with one Mr. P. Kalaimani in order to gain undue pecuniary benefits to him and caused damage to the property of the bank; secondly, the Petitioner stealthily removed one cheque book and signed the cheque as a drawer of a closed account and sent the same for collection thereby committed a gross misconduct; thirdly, he has taken one NRE account-holder's cheque book and signed some leaves and presented the same for collection. Thus, the Petitioner caused damage to the property of the bank and committed a gross misconduct. For all these, the Petitioner has given explanation, but the Respondent has not satisfied with the same and ordered for enquiry. The Enquiry Officer appointed for that enquiry in a most perverse manner held that the charges have been proved and based on that report, the punishment of compulsory retirement was awarded to the Petitioner on 20-9-97 by the II Party/Management. The order is a non-speaking order and it was imposed on a mechanical fashion. The appeal preferred by the Petitioner was also rejected by the Appellate Authority without applying his mind and without considering any of the objections raised by the Petitioner. The enquiry was conducted in an unfair manner and the principles of natural justice was not followed. The punishment imposed is excessive. It is only the bank officials who were involved in detaining the cheques, who have discounted beyond their pecuniary powers, alone were responsible for the misdeeds and only to safe guard their interests, the Petitioner was made as a scapegoat. Hence, for all these reasons, the Petitioner prays that an award may be passed in his favour.

4. For this, the Respondent in their Counter Statement alleged that it is no doubt true that the Petitioner was employed as a sub-staff and he has been subsequently promoted as a Clerk. While so, in 1996 when he was working as a Clerk in Respondent/Bank in Tsaiyanvilai branch, he misused the cheque discounting facility in collusion with Sri P. Kalaimani, who was working as Peon in the same branch and discounted the cheque in the Petitioner's name and facilitated others to discount the cheques. The cheques so discounted were either not sent to drawee branches or detained by him and sent after few months. Because of his such misconduct, he was suspended from service on 30-1-96 as the acts committed by him were grave in nature and affected the interest of the bank and he was charge sheeted on 7-5-96. Three charges have been framed against him. The Petitioner had admitted the charge Nos. 2 and 3. Since his explanation submitted to various misconducts/irregularities mentioned in the charge No. 1 was not satisfactory, domestic enquiry was ordered and he was permitted to have assistance of a co-worker and copies of documents relied on by the management were given to him in advance. Thus, the Respondent/Bank has filed as many as 70 documents in the enquiry and examined seven witnesses on its behalf. The Petitioner also cross examined the management witnesses in detail. The enquiry was conducted fully in conformity with the principles of natural justice by providing full opportunity to the Petitioner to defend the case. The Enquiry Officer upon detailed consideration of the relevant records and evidence both oral and documentary available on records held on 25-6-97 that the Petitioner is proved with guilty of charges, charge Nos. 2 and 3 and four misconducts in charge No. 1 levelled against him. The explanation given by the Petitioner on 13-8-97 was not satisfactory and after affording a personal hearing to Petitioner, the Disciplinary Authority, taking into consideration the gravity of the misconduct proved to have been committed by him, imposed the punishment of compulsory retirement on the Petitioner vide order dated 30-9-97. The Appellate Authority after considering the entire materials on record, rejected the appeal preferred by the Petitioner. The Petitioner had been earlier cautioned four times for the misconducts committed by him for dishonour of cheques, complaints from creditors and false claim etc. Therefore, it is futile to contend that the Petitioner had put in 22 years of unblemished record of service. The instances referred to under charge No. 1 were pertaining to the days on which the Petitioner was working as Tappal Clerk at the branch and since he has not despatched the Tappals even after making entries of Tappal Register, he was found to have committed irregularities and his attempt to blame the officers of the branch has no relevance and that issue is entirely different. Integrity and honesty are the foremost qualities of an employee of the bank and he should exercise when discharging his duties. Even under compelling circumstances, one should not fault such discipline. The admitted act of the Petitioner in this case is

a glaring example of grave breach of such integrity and honesty which has seriously affected the interest of bank and furthermore its reputation has also been put to jeopardy by the Petitioner's misdeeds. Since after considering all these things, the management has imposed the punishment of compulsory retirement, Since the Respondent prays that the claim of the Petitioner may be dismissed with costs.

5. The points for my determination are—

- (i) "Whether the action of the management of Respondent/Bank in giving the punishment of compulsory retirement to the Petitioner is legal and justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point No. 1:—

6. In this case, against the Petitioner three charges were framed by the Respondent/Bank. The first charge contains six instances. In six such instances, the Petitioner while working as a Clerk at Tsaiyanvilai branch of the Respondent/Bank misused the cheque discounting facility in collusion with Sri P. Kalaimani, sub-staff of the said branch and discounted the cheques in his own name and also facilitated the other staff members and customers to discount the cheques. The cheques so discounted were either not sent to the drawee branches or branch and sent after few months later. In the first instance on 21-6-95 a cheque for Rs. 4760/- drawn on Indian Overseas Bank, Nagercoil branch was discounted to the Petitioner in CDB (Clean Debit Bill) No. 3461, but it was not realised and ultimately recovered from the Petitioner on 5-10-95. In the second instance on 19-7-95 a cheque for Rs. 2,300/- issued by Sri S. Boothalingam, the brother of the Petitioner was discounted to the Petitioner under CDB No. 3538 and the said cheque was drawn on State Bank of India, Kuzhithurai and it was detained by the Petitioner with the collusion of Mr. P. Kalaimani, peon of the branch. The third instance is on 27-6-95 a cheque bearing No. 617749 drawn by Sri N. Ganesan on South Indian Bank Ltd., Nagercoil for Rs. 4000/- was discounted to Joseph Moris, a clerk under CDB No. 3479 and it was sent to Trichy for collection which is not the drawee branch and it has to be sent only to Nagercoil branch, which was wantonly sent by the Petitioner to Trichy and thus he has detained the cheque. Similarly, a cheque for Rs. 20,000/- was discounted to one Sri Tiruselvam, a customer of Tsaiyanvilai branch on 10-7-95 under CDB No. 3503 and it was drawn at Tiruchendur Urban Co-operative Bank, Udangudi. Even though it is mentioned in the Tappal Book as sent by ordinary post, the said cheque was realised only on 18-9-95 i.e. one month and eight days after the date of issue. Similarly, on 31-5-95 a cheque for Rs. 20,000/- drawn on Indian Overseas Bank, Kuttam was discounted to Mr. Esakiappan under CDB No. 3399 and the entries made in the Courier register that the cheque was sent on 3-6-95 to Indian Overseas Bank,

Kuttam but it was not sent on that day. Similarly, on 14-7-95 a cheque for Rs.49,370/- to one Sri T.P. Ganesan was discounted under CDB No. 3517 drawn on Indian Overseas Bank Kuttam and as per Tappal Register, the same cheque was sent by registered post to Kuttam on 15-7-95 and actually it was not sent to the drawee bank and the Petitioner alone has retained the same with the collusion of Sri P. Kalaimani. In all these instances, the Petitioner alone has written the Tappal Register and Sri P. Kalaimani was the sub-staff at that time and the explanation given by the Petitioner in all these cases that it was done due to postal delays and other circumstances and not detained by him and it was his further contention that the officers of the Tisaiyanvilai Branch of the Respondent/Bank only to accommodate their clients, they permitted CDB for customers for some consideration and they were more interested in facilitating the customers by detaining the cheques without sending them for collection or detaining the cheques without debiting the customers' accounts etc. and thus committed the misdeeds. Further, the Senior Manager and officers of the said branch detained the discounted cheques without making entries in Tappal Register or detaining the cheques after making entries in Tappal Register and it was very much convenient to do all such manipulations, as there was no permanent Tappal Clerk in that branch. Further, the Tappals were not sent on daily basis and also single day's Tappal Register was handed by three clerks and even on a single day, particulars column was filled by a clerk and stamp affixed column was filled by another clerk and it was also admitted during the enquiry that the entries were made by a Clerk on one day, the postage stamps were affixed on another day by another clerk and Tappals were sent on the third day by another clerk and there was no checking of Tappal Register by the higher officials. Under such circumstances, utilising the same, the Senior Manager and the Officers of the branch detained the cheques discounted by them for some consideration, without sending them to Tappal Section or taking out from Tappal Section and detained the cheques after making entries in Tappal Register. Therefore, it allowed that the copy are not clearly proved by any documentary or oral evidence that the Petitioner has detained the cheques or made false entries in the Tappal Register and therefore, the charges framed against the Petitioner in Charge No. 1 had not been proved beyond any doubt.

7. But, on the other hand, on behalf of the Respondent it is contended that though the investigating officer has come to the conclusion that the officials of the Tisaiyanvilai branch has made some misdeeds and they have granted overdraft facilities over and above their pecuniary limits and without informing the Regional Office about the overdraft facilities, in this case in all the six instances, in the first charge the Petitioner is the concerned person who had made entries in the Tappal Register and it was clearly established by the management witnesses in the enquiry that they were all false entries and the Tappals

have not been despatched on the date mentioned in the Tappal Register and so on. Except the two instances, in all the four instances, Tappals have not been sent to drawee branch or to the concerned person only by the Petitioner and the Enquiry Officer has clearly held that it was the Petitioner who had detained the cheques and made false entries and therefore, it cannot be said that the detention of the cheques are only due to maladministration of the officials. It is his further contention that though on a same day, so many clerks have made entries in Tappal Register, it is the Petitioner who has made the particular entry about the despatch of cheques and therefore, it is clearly established during the enquiry that it was the Petitioner who is responsible for all the misdeeds and only to facilitate his friends, & his associate he has made all these entries in the Tappal Register. Further, it is the contention of the Respondent that in two occasions, the Petitioner has made payment due to the CDBs and it clearly shows that it is only the Petitioner who wrongfully gained by these misdeeds and therefore, he is responsible for all these false entries in Tappal Register.

8. Again, on behalf of the Petitioner it was argued that the investigation officer's report and also the Enquiry Officer's report clearly show that accommodation of Senior Manager and Officers in collusion suppressing the facts from higher authorities and they are the persons who are responsible for withholding the instruments after discounting the same and they have permitted the customers for some consideration and only because of that the Senior Manager and Officers of the branch are interested in facilitating the customers and only to safeguard their interests, they have shown the Petitioner as a scapegoat and as such, it cannot be said that the charges framed against the Petitioner had been proved.

9. Though I find some force in the contention of the learned counsel for the Petitioner, I find there is no substance in the contention because even assuming that the Senior Manager/Officers of the Tisaiyanvilai branch of the Respondent/Bank has made certain misdeeds, there is no evidence on record to show that only due to the instructions of Senior Manager or other officers, the cheques were detained by the Petitioner or it was never sent to Tappal section and therefore, I find only to wriggle out the situation, the Petitioner has taken an advantage of this incident.

10. Though, again the learned counsel for the Petitioner argued that in this case it is the allegation of the Respondent that the Petitioner with the collusion of Sri P. Kalaimani has done all these things and the Respondent/Bank has also charge sheeted Mr. Kalaimani for some of the instances and also other instances happened during that period, but this Tribunal, in the dispute earlier raised by Mr. P. Kalaimani, had come to the conclusion that charges framed against Mr. P. Kalaimani have not been proved and therefore, this Tribunal had

ordered reinstatement of the said Mr. P. Kalaimani. Under such circumstances, for the same instances the concerned employee namely Sri S. Namasivayam also cannot be charge sheeted and the charges framed against him are false. But, I find there is no substance in this contention because, the collusion in between the Petitioner and Sri P. Kalaimani has not been proved. But on that only ground, it cannot be said that the Petitioner is an innocent and he has not done any thing in these instances. It is clearly established that in Tappal Register entries alleged to have been made by the Petitioner only and it was not sent to the drawee branch for months together. Under such circumstances, unless it is proved in the negative, the presumption is the Petitioner alone is responsible for all the misdeeds.

11. Again, the learned counsel for the Petitioner argued that with regard to charge No. 2 and 3, though the Petitioner has admitted that he has issued cheques to third parties on two occasions, he has clearly stated under what circumstances he has issued these cheques and therefore, it cannot be said that he has damaged the property of the Respondent/Bank in these occasions. Even in the Claim Statement, he has clearly stated that he had issued cheque to Mr. K. Kumarasamy for a sum of Rs.5000/-. It is his further admission that he has no account or issued with cheque book, when he was working in Kottar Nagercoil branch and only on fear of his life, he has utilised the blank cheque leaves and therefore, under such circumstances, it cannot be said that he had any intention to damage the property of the Respondent/Bank. Similarly, with regard to third charge, the NRE S.B. accountholder Mr. B. Arumugam's cheque book was sent by registered post and the said cheque book was returned subsequently and it was laying in Tappal tray for some time. As the Petitioner did not have the cheque book facility at that time, and he had to arrange funds for unforeseen domestic needs, he admitted that he has utilised the cheque book and issued two cheque leaves and the very fact that he has affixed his own signature in the cheque book, which clearly proves that he has no ill motive and therefore, in these circumstances, it cannot be said that it is a grave misconduct as alleged by the Respondent/Bank. But, I cannot understand the contention that the bank employee who was dealing with money and who was dealing with cheque books without knowing the consequences had issued these cheque leaves to other persons. Therefore, I find that the charges framed against the Petitioner had been clearly proved and the findings given by the Enquiry Officer are correct.

12. Then, again the learned counsel for the Petitioner argued that even assuming for an argument sake that the Petitioner has done some mistakes, the punishment awarded to the Petitioner in this case is not proportionate to the charges framed against the concerned employee and under Section 11A of the Act, this Tribunal has got every power to reduce the quantum of punishment imposed on the

Petitioner and in this case, the delinquent employee has admitted certain misconducts. Under such circumstances, termination from service cannot be said a proper punishment imposed on the Petitioner. Therefore, he requests this Tribunal to interfere with the quantum of punishment, as the Petitioner is the only breadwinner of his family and the entire family is in great distress.

13. As against this, the learned counsel for the Respondent argued that integrity and honesty are the foremost qualities that the bank employee should exercise when discharging his duties and even under compelling circumstances, one should not fault such discipline. The instances proved against the Petitioner in this case are glaring example of grave breach of such integrity and honesty which has seriously affected the interests of bank and furthermore its reputation has also been put to jeopardy by the Petitioner's misdeeds and therefore, no sympathy can be exercised against the Petitioner for the punishment awarded by the Respondent. I find much force in the contention of the learned counsel for the Respondent. Integrity and honesty are the foremost qualities of employees of bank. In this case, the Petitioner has misused his position and he has detained the cheques to facilitate his friends & associate and thus made temporary loss to the Respondent/Bank. Under such circumstances, I find this point against the Petitioner.

Point No. 2 :—

The next point to be decided in this case is to what relief the Petitioner is entitled ?

14. In view of my fore going findings, I find the Petitioner/Workman Sri S. Namasivayam is not entitled to any relief. No Costs.

15. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 29th December, 2003.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :—

On either side : None

Documents Marked :—

For the I Party/Workman :— Nil

For the II Party/Management :—

Ex No.	Date	Description
M1	07-05-96	Xerox copy of the charge sheet.
M2	25-06-96	Xerox copy of the letter from Petitioner to Respondent.

M3	Nil	Xerox copy of the enquiry proceedings.
M4	25-06-97	Xerox copy of the enquiry findings.
M5	13-08-97	Xerox copy of the explanation given by Petitioner to enquiry findings.
M6	15-09-97	Xerox copy of the proceedings of personal hearing.
M7	30-09-97	Xerox copy of the proceedings of Deputy General Manager imposing Punishment.
M8	13-10-97	Xerox copy of the proceedings of Deputy General Manager imposing punishment.
M9	06-11-98	Xerox copy of the order of Appellate Authority.
M10	22-01-99	Xerox copy of the proceedings of Deputy General Manager.
M11	Series (70) Nil	Xerox copy of the management exhibits.

नई दिल्ली, 12 जनवरी, 2004

का.आ. 290.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चैन्नई के पंचाट (संदर्भ संख्या 71/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-1-2004 को प्राप्त हुआ था।

[सं. एल. 12012/53/2002-आई.आर. (बी.-II)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 12th January, 2004

S.O. 290.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 71/2002) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of Syndicate Bank and their workmen, received by the Central Government on 12-1-2004.

[No. L-12012/53/2002-IR(B-II)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 31st December, 2003

Present : K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 71/2002

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Syndicate Bank and their workman Sri P. Shivaji Kumar)

BETWEEN

Sri P. Shivaji Kumar : I Party/Workman

AND

The Deputy General Manager, : II Party/Management
Syndicate Bank, Z. O.,
Chennai.

Appearance :

For the Petitioner : M/s. S. Vaidyanathan,
Advocate

For the Management : M/s. T. S. Gopalan &
Co., Advocates

AWARD

The Central Government, Ministry of Labour vide Notification Order No. L-12012/53/2002-IR(B-II) dated 30-07-2002 has referred the following dispute to this Tribunal for adjudication :—

“Whether the termination of Shri P. Shivaji Kumar by the management of Syndicate Bank is legal and justified? If not, what relief the workman is entitled to?”

2. After the receipt of the reference, it was taken on file as I.D.No. 71/2002 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner was employed as a clerk in Respondent/Bank at its Mount Road Branch, Chennai as an Award Staff. While so, he was suspended w.e.f. 30-12-82 and was issued with charge sheet dated 1-6-89 in respect of same incident for which the Petitioner was acquitted by the Criminal Court. Therefore, Writ Petition No. 2818/90 was filed by the Petitioner challenging the charge sheet and the High Court vide its order dated 13-3-90 initially granted an interim injunction and

subsequently permitted the bank to proceed with enquiry and restrained the bank from giving final orders. The Petitioner was suspended in respect of the transaction under the provisions of Bipartite Settlement. The bank also preferred a complaint to the police against the Petitioner and his father for offences under Sections 467, 468 and 420 of IPC. There was an additional charge against the Petitioner and his father under section 109 of IPC. After considering the charge sheet and after considering the evidences adduced in that case on 2-2-88 both the Petitioner and his father were acquitted on merits. The complaint against the Petitioner was that he was unauthorisedly debited a sum of Rs. 10,000/- into the account of one of the customers Mr. A. Ravikumar and a demand draft for the said amount was prepared in the name of Petitioner's father and encased thereafter. But the Petitioner's case was that on the basis of a letter of authority given by Mr. Ravikumar the said amount was debited in his account and a demand draft was purchased in the name of Petitioner's father as loan and because of the delay in payment of loan, the case was foisted on them and the amount was also returned to Mr. Ravikumar. When examining in domestic enquiry, the bank has not examined the main witnesses in that case and further without considering the fact that criminal court has honourably acquitted the Petitioner and against the provisions of Sastry Award, the Respondent/Bank had conducted the enquiry and the Petitioner was given the punishment of termination. The Enquiry Officer has erroneously come to the conclusion that the Petitioner has misappropriated the funds of the customer. Even after giving a detailed reply, the Disciplinary Authority asked the Petitioner to appear for personal hearing and had imposed the punishment illegally. The Appellate Authority has also not considered the material-facts in this case and confirmed the order of Disciplinary Authority. Even while the Petitioner was under suspension, he was not paid subsistence allowance properly. The Petitioner also filed contempt application. The Petitioner states that the findings of the Enquiry Officer and orders of Disciplinary Authority and Appellate Authority run counter to the evidence on record and admission of the management witnesses before criminal court and Disciplinary Authority. Even assuming that without conceding the charges are proved, the Petitioner prays that this Hon'ble Court may be pleased to interfere with the punishment under Section 11A of the Act. The authorities of Respondent/Bank have not taken into account the unblemished past record of the Petitioner. Hence, he prays that an Award may be passed in his favour.

4. The Respondent in its Counter Statement has contended that the Petitioner was employed as a clerk in Mount Road Branch. On 24-8-91 on the introduction of the Petitioner, one Mr. M. Ravikumar opened a S. B. account No. 20242 with a cash deposit of Rs. 27,700/- at Mount Road Branch. The said Ravikumar issued a cheque for Rs. 12,000/- by way of margin money by buying a car, but it

was returned twice when it came for presentation. Therefore, on 29-9-82 he came to the branch and was surprised to find that the account has been debited with a sum of Rs. 10,000/- on 10-11-81 without his authority. On 29-9-82 at about 11-30 A.M. the Petitioner approached Mr. Ravikumar and told him that he had drawn Rs. 10,000/- to purchase a demand draft and he would return the money by next day. Since the Petitioner did not pay the money on 30-9-82, Mr. Ravikumar gave a complaint and informed that he did not give any authorisation letter to the bank for debit of Rs. 10,000/- from his account. On enquiry, it was found that the Petitioner has prepared a debit voucher dated 10-11-81 debiting the S. B. Account No. 20242 with Rs. 10,000/- and prepared a credit slip for purchase of pay order/demand draft favouring one Mr. Ramaswamy, his father. Accordingly, the pay order/local demand draft was issued on 10-11-81 for the said amount of Rs. 10,000/- payable to Mr. Ramaswamy, namely the father of the Petitioner. The said amount was credited into his father's Indian Bank Account on 11-11-81 and on 12-11-81 Rs. 9,700/- was withdrawn from Account No. 32951 of Indian Bank by issue of a self cheque. In other words, the Petitioner had unauthorisedly transferred Rs. 10,000/- from the account of Mr. Ravikumar and purchased local pay order in favour of his father and taken the amount. The Special Assistant Mrs. A. S. Nirmala authenticated the transfer entry in the S. B. account of Mr. Ravikumar. On coming to know, on 30-12-82, a suspension order was issued to Petitioner. The police registered a case in C.C. No. 12532 of 1984. The criminal court has acquitted the Petitioner. Thereafter on 1-6-89, charge sheet was issued to Petitioner charging him with misconduct of doing acts prejudicial to the interest of the bank under clause 19.5(j) of the Bipartite Settlement. The Petitioner preferred the Writ Petition No. 2818 of 1990 and obtained an order of injunction dated 13-3-90 and on 12-6-91 the order of injunction was vacated permitting the bank to proceed with enquiry and not to give effect to final orders. The domestic enquiry was held into the charges against the Petitioner and the Enquiry Officer has given the report on 20-4-94 holding that the charges against the Petitioner were proved. The Petitioner has made his submission on 15-6-94. Finally, the Disciplinary Authority on 10-3-98 proposed the punishment of termination and the Petitioner was given a personal hearing on 21-3-98. On 26-5-98 the Disciplinary Authority passed an order of termination of service by paying three months pay and allowances in lieu of notice. The High Court on 15-9-98 directed the bank not to give effect to the final orders passed till the disposal of the departmental appeal and accordingly disposed of the Writ Petition. On 17-6-98 the Petitioner preferred an appeal against the order of Disciplinary Authority and the Appellate Authority has confirmed the punishment imposed by the Disciplinary Authority. In view of the disposal of the appeal and Writ Petition, the Disciplinary Authority on 5-2-99 gave effect to the order passed earlier in the matter. The order of

acquittal by the Criminal Court was not on merits. The Respondent has no knowledge whether the Petitioner has repaid the amount of Rs. 10,000/- to Mr. Ravikumar. Smt. A. S. Nirmala Special Assistant was proceeded with by way of disciplinary action for certain serious acts of misconduct and falsification of bank records, misappropriation etc. and she was dismissed on 15-12-83. The criminal court giving the benefit of doubt to the Petitioner and acquitted the accused and therefore, there is no prohibition to proceed with disciplinary action against the Petitioner. The evidence let in before criminal court would have no bearing on the issue. There was no evidence before the domestic enquiry about the authorisation letter said to have been given by Sri Ravikumar and therefore, the Enquiry Officer was justified in coming to the conclusion that there was no such authorisation. The period spent under suspension was treated as an duty and accordingly the Petitioner was paid full salary/arrears covering his period of suspension, therefore, there is no scope to grant any further relief. Since the misconduct committed by the Petitioner as found proved in the enquiry which was serious and merited the punishment of termination. It is not correct to allege that provisions of Sastry and Desai Awards or Bipartite Settlement had been violated by the Respondent. Hence, the Respondent prays that the claim may be dismissed with costs.

5. The points for my determination are —

- (i) "Whether the termination of the Petitioner by the management of Syndicate Bank is legal and justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point No. 1:—

6. The charge against the Petitioner in this case is that he has misappropriated an amount of Rs. 10,000/- belonging to Mr. M. Ravikumar, an account holder of S. B. Account No. 20242 of Mount Road branch of the Respondent/Bank. According to the Respondent, the said amount has been withdrawn by the Petitioner by unauthorisedly debiting the accountholder's account and obtained a demand draft for the like amount in the name of his father. As against this, the Petitioner contended that debit of this amount from the account of accountholder Mr. Ravikumar and purchase of demand draft in the name of Petitioner's father were as per the authorisation letter given by the accountholder and he has nothing to do in this matter. In this case, on the complaint of Sri Ravikumar, the accountholder, the management and also the police authorities have taken action against the Petitioner. In the police case, the Petitioner and his father were made accused. In the matter of criminal case, it was ended in acquittal. After the criminal court judgement, the Respondent/Management has taken departmental action against the Petitioner.

7. The first objection raised by the Petitioner against the Respondent/Management in this case is that para 505 of Sastry Award which was subsequently reiterated in Desai Award and which is a part of Bipartite Settlement between the Management says "*decisions of our Courts are entitled to highest respect and the bank management should reinstate an employee who is honourable acquitted and pay him his full salary and allowances. The acquittal should not be lightly challenged by departmental enquiries for disciplinary action. Unless the bank management feels that there has been such a gross violation of departmental rules as to necessitate a further enquiry in the interests of institution on matters other than those in respect of which he has been already acquitted. If after the departmental enquiry, the management still feels that the employee cannot continue in its service, it can terminate his service only on payment of three months salary and allowances in lieu of notice.*" The counsel for the Petitioner argued that even assuming that the bank has got right to take punishment action against the person under section 19.3(3) of the Bipartite Settlement, it is always subject to para 505 of Sastry Award and in this case, the Criminal Court has honourably acquitted the Petitioner for the same charges alleged against the Petitioner. Under such circumstances, the Respondent/Management has no power to conduct the enquiry and punish him. Though I find some force in this contention, on a perusal of the criminal court judgement and also relevant documents, material records produced before this Tribunal, I find there is no substance in this contention because the Petitioner herein, in the criminal case has not been honourably acquitted, on the other hand, he has been acquitted on the ground of benefit of doubt, that too, on relying on the evidence of a dismissed employee of the Respondent/Bank with regard to authorisation letter alleged to have been given by the accountholder. Any how, this Court is not an Appellate Authority to question the order pronounced in the criminal case. But, one thing is certain that the Petitioner is not honourably acquitted in the criminal case, therefore, the Respondent/Management has every right to conduct the departmental enquiry.

8. The next contention of the Petitioner is that one Mr. Natanasabapathy, who was examined as MW1 in the domestic enquiry was not a witness in the criminal case and Mr. M. Roosevelt, who was the then Manager at the time of the incident and who had been examined as first witness before the criminal court was not examined in the domestic trial. Similarly, Smt. A. S. Nirmala who was examined as a prosecution witness, who was the material witness was not examined in the domestic enquiry for the reasons best known to the Respondent/Management. Under such circumstances, it cannot be said that the management has proved the charges against the Petitioner.

9. As against this, on the side of the Respondent it is argued that criminal action was initiated on the complaint

of the accountholder Mr. Ravikumar and the prosecuting agency namely the police had given the list of witnesses in that case and they have mentioned only Mr. Roosevelt, since he was the Manager at the time of incident and therefore, this Mr. Natanasabapathy was not examined in criminal case. Sri Ravikumar, the accountholder has given an evidence before the criminal court that he has informed about the incident to the Manager and also officials of the Mount Road branch of the Respondent Bank. The Sub Manager namely Mr. Natanasabapathy who was also present at that time was examined by the Management side. Again Smt. A. S. Nirmala, who was the Special Assistant, who had signed in the credit and debit vouchers in this case has been dismissed from service for similar offences even before the criminal court's evidence. Under such circumstances, it cannot be said that the non-examination of these witnesses is fatal in the case of management. I find some force in this contention, because even assuming for an argument sake, if the Special Assistant was summoned, she will not support the case of the management because, if she supports the case, then she will be held liable for departmental action for approving the debit and credit vouchers without any authorisation letter from the accountholder. Further, we cannot expect the employee Smt. A. S. Nirmala, who had been dismissed for the similar offence even prior to criminal case and domestic enquiry, will support the case of the management. Therefore, we cannot find fault with the management for non-examination of the said persons. Further, it is the clear evidence of Sri Ravikumar that he has not given any authorisation letter either to the Petitioner or to his father. Furthermore, merely because the evidence of Smt. A. S. Nirmala, a dismissed employee, we cannot presume or assume that there must have been an authorisation letter and only because of that authorisation, the said witness has approved the debit and credit vouchers. There is one other point to be noted in these circumstances is Mr. Natanasabapathy, the management witness was examined in the enquiry and it was his evidence that it is always a practice to mention party's letter of authorisation in the debit slip and in the instant case, it was not mentioned. This evidence was not disputed by the Petitioner in the cross examination that as there is no practice like this.

10. But the learned counsel for the Petitioner has taken advantage of this evidence of Smt. A. S. Nirmala before the criminal court that she would not have signed and passed the debit and credit vouchers without the authorisation letter of the accountholder, he argued that the authorisation must have been with the bank and they want only suppressed the document before the criminal court and also before the domestic enquiry. But, I do not find any point in this contention because the Petitioner has not alleged any motive against the respondent or vindictiveness for the enquiry and this enquiry was started on the complaint of Sri Ravikumar, accountholder and he has alleged that on 29-9-82, when he came to the bank for

complaining about non-honouring of his cheque for Rs. 10,000/-, he found the unauthorised withdrawn of money by the bank staff, the Petitioner has admitted his guilt and in the presence of the officials of the bank and in his presence, he (the Petitioner) prayed time upto next day i.e. 30-9-82 for payment of the amount and on the advise of the Manager and officials, he has obliged to grant time till 30-9-82 for the payment of amount by the Petitioner and only because of non payment of money, he has given the complaint to the Manager on 30-9-82. This evidence is also corroborated by the Sub-Manager Mr. Natanasabapathy. As against this evidence, the Petitioner has not given any valid reasons except the statement that he was not present on that day and he was on leave, but he could not establish this fact of leave with any material evidence. When he has not alleged any motive for the management for initiation of enquiry against him and when he has not substantiated his contention that he was not present in the bank on that day i.e. on 29-9-82, it is futile to contend that the bank has not established the charge. As I have already stated, the non-examination of the witness Smt. A. S. Nirmala in the stated circumstances will not be a fatal to the management.

11. Again, the learned counsel for the Petitioner argued that the findings of the Enquiry Officer and the order of the Disciplinary Authority and also Appellate Authority run counter to the evidence on record and the admission of the management witnesses before the criminal court and the Disciplinary Authority and therefore, no reliance can be placed on the enquiry report and therefore, the punishment given on the strength of the report is vitiated. But, as I have already stated, except the bald statement of the Petitioner, there is nothing on record to show that the Enquiry Officer's finding is not proper. Therefore, I hold the finding of the Enquiry Officer that the charges against the Petitioner have been proved is valid in law.

12. Again, the learned counsel for the Petitioner argued that even assuming without admitting for an argument sake that the charges have been proved against the Petitioner, this Tribunal has got every power to interfere with the punishment under section 11A of the Industrial Disputes Act, 1947, as in this case neither the Disciplinary Authority nor the Appellate Authority have taken into account the unblemished past record of the Petitioner and this is an utter violation of Sastri and Desai Awards and the Bipartite Settlement between the parties. Under such circumstances of the case, aggravating or extenuating circumstances have to be considered by the authorities before imposing the punishment. But, in this case these mandatory provisions have not been complied with by the bank authorities and therefore, the order passed by the Disciplinary Authority and Appellate Authority are vitiated.

13. But as against this, the counsel for the Respondent relied upon the judgement reported in 1999 II LLJ 194, MANAGEMENT OF CATHOLIC SYRIAN BANK LTD.

Vs. INDUSTRIAL TRIBUNAL, MADRAS AND ANOTHER wherein the High Court has held that "*counsel for the workman contended that the past conduct of the II Respondent/workman had not been considered. According to him, the past record of workman was such as to extenuate the gravity of the misconduct committed by him. Where the misconduct of the delinquent is grave the absence of any penalty during his earlier period of service by itself would not constitute a sufficient basis for holding that penalty is not in accordance with law. The lacklustre record which shoed neither significant achievement nor the suffering of any penalty cannot contribute much to the decision regarding the penalty, where the misconduct established is a grave one.*" Relying on this judgement, the counsel for the Respondent argued that only because the workman's past record has not been looked into at the time of imposing the punishment, it cannot be said that the punishment given by Respondent/Management is vitiated. I find much force in this contention and I find, on that ground the Petitioner cannot contend that the order passed by the departmental authorities are illegal.

14. The learned counsel for the Petitioner then again relied on the ruling AIR 2003 SC 1377 KAILASH NATH GUPTA Vs. ENQUIRY OFFICER, ALLAHABAD BANK AND OTHERS and argued that in that judgement, the Supreme Court has clearly held that "*if the punishment imposed by the Disciplinary Authority and Appellate Authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief either directing the Disciplinary Authority /Appellate Authority to reconsider the penalty imposed or to shorten the litigation, it may itself in exceptional and rare cases impose appropriate punishment with cogent reasons in support thereof*" and he further argued that it is not clearly established that the Petitioner is the beneficiary in this case. Even though it is alleged that the Petitioner has misappropriated Rs. 10,000/- it is not clearly established through cogent evidence that beneficiary is the Petitioner, though the Petitioner's father who was the beneficiary in this case and it cannot be said for the action of his father, the Petitioner can be penalised and therefore, this Tribunal has got every power to mould the relief and can reduce the punishment given by the Disciplinary Authority.

15. But, the Petitioner was an employee in the bank, wherein the confidence of the customer is a paramount for success of banking business. In this case, I find it is clearly established that the Petitioner has misappropriated the amount due to the accountholder Mr. Ravikumar. Therefore, the effect of continuance of employment of the Petitioner who had failed to inspire the confidence of the employer was also evident. The risk of the bank to employ the person like the Petitioner who had defrauded the customer and spoiled the bank's reputation was also evident. Since the misconduct committed by the Petitioner has been proved after due enquiry in which the Petitioner had fully

participated, it cannot be said that this Tribunal has to mould the relief and to reinstate the Petitioner in service. Under such circumstances, I find this point against the Petitioner.

Point No.2:-

The next point to be decided in this case is to what relief the Petitioner/Workman is entitled?

15. In view of my finding that the charges framed against the Petitioner/Workman Sri P. Shivaji Kumar had been proved, I find the Petitioner is not entitled to any relief. No Costs.

16. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 31st December, 2003.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :—

On either side : None

Documents Marked :—

For the I Party/Workman :—

Ex. No.	Date	Description
W 1	Nil	Xerox copy of the ledger sheet of Sri Ravikumar S.B. Account No.20242.
W2	11-01-83	Xerox copy of the reply given by Petitioner to Deputy General Manager.
W3	02-02-88	Xerox copy of the judgement in C.C.No. 12532/84.
W4	13-03-90	Xerox copy of the order of High Court of Madras in W.P. No. 2818/90.
W5	15-09-98	Xerox copy of the order of High Court in W.P. No.1818/90.
W6	Nil	Xerox copy of the letter from Advocate of Respondent to Petitioner.
W7A	25-02-86	Xerox copy of the deposition of Sri Roosevelt, Manager of Respondent/Bank.
W7B	25-03-86	Xerox copy of the deposition copy of Smt. A. S. Nirmala
W7C	21-04-86	Xerox copy of the deposition copy of Sri Ravikumar.

For the II Party/Management:—

Ex. No.	Date	Description
M1	30-2-82	Xerox copy of the suspension order issued to Petitioner.
M2	01-06-89	Xerox copy of the charge sheet issued to Petitioner.
M3	08-06-89	Xerox copy of the letter from Petitioner to Respondent.

M4	13-03-90	Xerox copy of the order in W.P.No. 2818/90
M5	12-06-91	Xerox copy of the order in W.P.No.2818/90
M6	04-07-92	Xerox copy of the letter of Asst. General Manager to Petitioner
M7	10-02-93	Xerox copy of the enquiry proceedings
M8	20-04-94	Xerox copy of the report of Enquiry Officer
M9	01-06-94	Xerox copy of the letter from Disciplinary Authority To Petitioner
M10	15-06-94	Xerox copy of the reply of Petitioner
M11	16-09-94	Xerox copy of the notice of personal hearing.
M12	28-09-94	Xerox copy of the minutes of personal hearing.
M13	09-06-95	Xerox copy of the letter of Disciplinary Authority
M14	03-07-95	Xerox copy of the proceedings of hearing.
M15	10-03-98	Xerox copy of the letter of Disciplinary Authority
M16	21-03-98	Xerox copy of the minutes of personal hearing.
M17	26-05-98	Xerox copy of the final order of Disciplinary Authority
M18	17-06-98	Xerox copy of the copy of appeal filed by Petitioner
M19	19-01-99	Xerox copy of the proceedings of Appellate Authority
M20	05-02-99	Xerox copy of the letter of Disciplinary Authority to Petitioner
M21	Nil	Xerox copy of the account opening form of Ravikumar.
M22	10-11-81	Xerox copy of the debit slip for Rs. 10,000/-
M23	10-11-81	Xerox copy of the credit slip for Rs.10,000/-
M24	Nil	Xerox copy of the ledger copy of S.B. Account.
M25	Nil	Xerox copy of the demand draft for Rs. 10,000/-
M26	05-09.82	Xerox copy of the letter of Ravikumar
M27	01-10-82	Xerox copy of the letter of Ravikumar
M28	15-11-81	Xerox copy of the leave application of Shivajikumar
M29	15-11-81	Xerox copy of the Doctor certificate of Petitioner
M30	17-11-81	Xerox copy of the leave sanction letter

M31	Nil	Xerox copy of the passbook of S.B. A/c. No. 20242.
M32	Nil	Xerox copy of the passbook of Mr. Ramasamy.
M33	12-11-81	Xerox copy of the withdrawal slip for Rs. 9700/-
M34	Nil	Xerox copy of the statement of account of Ramasamy
M35	26-12-81	Xerox copy of the withdrawal slip for Rs.300/-
M36	30-11-82	Xerox copy of the demand report
M37	Nil	Xerox copy of the specimen writing of Shivajikumar
M38	Nil	Xerox copy of the specimen writing of Ramasamy
M39	18-10-84	Xerox copy of the letter from Forensic Science Laboratory to Central Crime branch, Chennai.

नई दिल्ली, 14 जनवरी, 2004

का.आ. 291.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एल.आई.सी.ऑफ इंडिया के प्रबंधन के संबंध में निवेदन और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, मुम्बई के पंचाट (संदर्भ संख्या 46/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-1-2004 को प्राप्त हुआ था।

[सं. एल. 17012/35/96-आई.आर. (बी.-II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 14th January, 2004

S.O. 291.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. No. 46/97 of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Mumbai No. 1 as shown in the Annexure, in the industrial dispute between the management of L.I.C. of India and their workmen, received by the Central Government on 14-01-2004.

[No. L-17012/35/1996-IR(B-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 AT MUMBAI

Present

Shri Justice S.C. Pandey,
Presiding Officer

REFERENCE NO. CGIT-46 OF 1997

Parties

L.I.C. of India

V/s.

Their workman

272 GI/04-8

Appearances :

For the Management : Shri V. W. Bapat
 For the Workmen : Shri A. S. Deo
 (Authorised
 Representative
 General Secretary),
 W.Z.I.E.A
 State Goa

Mumbai, dated this the 30th day of December, 2003.

AWARD

1. This reference is made by the Central Government under the powers conferred upon it by clause (d) of Sub-section (1) read with Sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 (the Act for short). The terms of dispute given in schedule attached to the order of reference are as follows:—

“Whether the action of the management of LIC of India in not regularizing as full time sweeper to Smt. Radhabai Nawar of LIC Branch Office, Margao, Goa and continuing her only as Part-time casual sweeper on daily wages ever since her appointment in LIC of India in the year 1962 is proper, legal and justified? If not, to what relief the said workman is entitled and from what date?”

2. A Statement of claim was filed on behalf Smt. Radhabai Nawar (the workman for short) against L.I.C. of India (hence forth the corporation) by General Secretary Western Zone Insurance Employees Association (hence forth the Association) after being duly authorised by her.

3. It was alleged that the corporation was governed by LIC Act, 1956 (the Act for short). The business of Life Insurance was nationalized on 19.1.1956 and the corporation was established on 1.9.1956. It held monopoly of Life Insurance business. It had its head quarters at Mumbai, 7 Zonal Offices, 103 Divisional offices and over 2000 branch offices, in various parts of the country.

4. It was stated that the corporation engaged the services of part time basis in some of its offices. The part time work was allotted two workmen for 2 hours to 4 ½ hours per day. These workmen were not treated as the class IV employees under the LIC of India (Staff) Regulations, 1960 (Staff regulation for short). It was alleged that Dr. Justice R.D. Tulpule had recorded the Award dt. 17.4.1986 accepting the reference that there was employer-employee relationship between the part time workers and the corporation.

5. It was alleged that after the award the corporation passed in order in the year 1987 employing the workman as permanent part time employee with retrospective effect from 1.1.1982. This order was passed in accordance with the Award dt. 17.4.1986 passed by Justice R. D. Tulpule. At that time of the branch of the corporation was situated at Kamat House at Marmagao. The workman was required

to sweep 74238.62 sq. feet at area for which she was given part time employment 4 hrs. per day. It submitted that 17-7-1985 is the branch office shifted to Rajyadhyaksha Park, Goa. The new office had longer area for sweeping. Its floor area was 11,495.86 sq. feet. The workman was required to sweep two more buildings i.e. Salgaonkar Chambers and Guest House. The total area of came to 15,730 sq. feet. These building were situated within 1 km. apart from each other. Thus workman was for required to work more than 8 hours. She was working per total 14 hours along with another sweeper Prakash Laheru. However the Prakash Laheru was required to work for 4 hours and the workman per ten hours. She was being paid for 4 hours only. The workman therefore raised a demand that she be made a full time sweeper. The demand was rejected. The workman raised the Industrial Dispute and thus the matter was referred to this Tribunal.

6. In the written statement the corporation raised a preliminary objection to the effect that by virtue of Sub-section 20 of Section 48 of L.I.C. Act, the provisions of the Act are excluded from appealed in the case staff of L.I.C. So far as the absorption of workman was covered, it has been stated that the appointment to regular staff is governed by “Regulations”. It was stated that the Act had no application. On merits it was stated that award dt. 7.4.86 was referred to National Industrial Tribunal presided over by Justice Jamdar. Justice Jamdar given award dt. 18.6.1988 whereby the award dt. 7.4.86 delivered by justice Dr. R. D. Tulpule was clarified. Both the awards were challenged by the corporation SLP No. 149068/88. A Compromise order dt. 1.3.89 was passed by the Supreme Court as an interim measure. On 7.3.1996 compromise order was confirmed. It was therefore stated that it was misleading to refer to Tulpule Award. The allegation in paragraph 7 to 9 of the Statement of Claim were denied. It was denied that Radhabai was required to work anywhere except the new office of branch at Rajyadhyaksha Park. It was not disputed that floor area of Rajadhyaksha Park was 11,495.86 square feet. It was assured that two sweepers were posted at office of the branch at Goa i.e. the workman and Prakash Laheru. It was denied that workman was required to sweep two buildings 1 K.M. away from the office. It was denied that workman was required to sweep more than 10,000 square feet. It was alleged that the workman was required to sweep 5500 square feet approx per day. The other half was swept by Prakash Laheru. It was stated that the workman was correctly paid for 4 hours per day as a part time sweeper. It appears all other allegations were denied.

7. It has been finally argued that in view of A. V. Nachane Vs. Union of India AIR 1982 SC 1186 and M. Venugopal Vs. Divisional Manager AIR 1994 SC 1343 this reference does not lie. In the opinion of this Tribunal these cases do not come in the way of this reference. In both these cases it has been recognized that the staff regulations framed under Section 49 (2) of the Act prior to amendment shall have force of rules framed by the Central

Government 48 (2) of the Act. Section 48 (2) (CC) does not say that regulations shall override all the provisions of the Act. The Supreme Court had pointed out in the case of Venugopal that the jurisdiction to give any award contrary to regulations would be hit by Section 48 (2) (CC). It has been pointed out there is no provision under any regulation for appointing part time temporary staff. Therefore the appointment was on the basis of circular issued by the chairman. The regulation No. 4 of LIC of India (Staff) Regulation, 1960 (the Regulations for short) confers power on the chairman to issue regulations. These circulars shall be deemed to have force of law. If there be any breach of regulations reference can be made in fact this a case of as a regularizing the services of the workman and not for absorption of the employee as a part time permanent workmen. The reference cannot be rejected as without justification because the Award shall not be contrary to any regulation.

8. It is not in dispute that workman was initially appointed as a sweeper on daily wages. It is not the disputes that workman was appointed as part time permanent sweeper from 1-1-1982 at Branch No. 999 Margao, Goa. At that time branch after was started at Kamat House when the workman was working as part time permanent class IV employee. It is also not disputed that workman has now retired.

9. The workman stated in her evidence that she was working at Kamat House Margao, Goa. Where divisional office of L.I. C. was functioning. The floor area of Kamat House was 7,438 sq. feet. She was being paid on basis she had worked for four hours daily on 17-7-1995. New office was opened at Rajadhyaksha Park. The floor area which she was required to sweep 11,494 sq. feet in this office. Besides she was asked to sweep at Branch 93 M. Salgonkar Chamber and Napdoll Apartments (Guest House).

The total area 15,730.86 sq.ft. These office were situate within the radius of one mile of each office. She did not dispute that Prakash Laheru was also working but she claimed that she working per hour than 8 hours. It was her claim that since she swept more than 10,000 sq. feet. She was entitled to claim that all the service benefits be given to her from 17-7-1995 as full time sweeper. Her evidence is supported by the statement of her witness Narayan Nagar Shekar. He says that after shifting of the office at new place workman sweeping total 12,82,52 sq. feet in all. The witness for Life Insurance Corporation Budhaje Arlekar filed his affidavit. The witness stated in his affidavit that prior to shifting to Rajadhyaksha Park, the total area for which sweeping was required 8019 sq. feet. It is clear from his affidavit that area in the Kamat House was 2770 sq. feet. The rest of the area was Emscat House, Salgaonkar Chambers, Napdoll Apartment. This witness says that in the new office the floor area which required sweeping was 11,499.45 sq. feet. Therefore it is clear that now the total area required for sweeping Salgaonkar Cham-

bers, Napdoll Apartment, and Emscat House would exceed 17,000 sq. feet. In order to get out of the station, witness stated that workman and Prakash Laheru were sweeping the Rajyadhyaksha office. It appears from the cross-examination that Prakash Laheru was appointed in the year 1984. The witness admitted that Prakash Laheru was Paid as per W1, W2, W3, W4. He was doing the job of scavenger. His part time appointment was for 2 hours. He admitted prior to appointment of Prakash, the workman was performing the work of sweeper for the entire area. The witness stated that he relied on the office order dated 19th May, 1990 for saying that the area was swept by Prakash Laheru. He admitted that his statement was contradictory to that made by the corporation before the conciliation officer. However it appears that this witness who had joined the office on 1997 had no personal knowledge that office order was implemented regarding the fact that in the new office workman and Prakash Laheru will be sweeping jointly. On the other hand the vouchers W1, W2, W3, W4, W5, W6, showed that Prakash Laheru was doing the work scavenger and was paid accordingly in the opinion of this tribunal the evidence lead on behalf of the corporation is mixed-up with a view to show that Prakash Laheru was also doing the job of sweeping. It appears that Prakash Laheru was serving as an scavenger. He was doing the job of cleaning toilets etc. Accordingly he was paid for 2 hours per day. There is nothing to show that he was appointed as sweeper at Rajyadhyaksha building. It is also clear from the evidence the witness that Radhabai was required to do the job of sweeping at the Guest House at Napdoll Apartments. Even if we ignore her case that she was required to sweep at branch 93 M, then also it can be safely inferred that Radhabai was sweeping more than 10,000 sq. feet at Rajyadhyaksha Park and the Guest house at Napdoll Apartments Shri Parkash Laheru was not even a part time sweeper. The corporation cannot take advantage an illegal order asking him to sweep the floor for the purpose of depriving the workman of her status.

10. It is not in disputed that the circular dated 15.5.87 government norms of appointment of part time sweeper. It provided where floor area for sweeping was between 5000 to 10,000 sq. feet, a part time sweeper could be appointed for doing the daily work for 4 hours. In the opinion of this tribunal the work of the workman no longer remained part time after 7th July, 1995. She was required to sweep by 11,499 sq. feet at the office at Rajyadhyaksha Park. She was further required to sweep the Guest House at Napdoll Apartments. Thus area would be further increased. Once this area was increased to more than 10,000 sq. feet the corporation was required to appoint full time permanent workmen. On behalf of the corporation. Before the National Tribunal presided over the Dr. Justice Tulpule, a statement of the above nature was made.

11. Therefore this tribunal comes to the conclusion that workman was entitled to the status of full time permanent workman from 17th July 1995. The corporation in directed to treat her as full time permanent workman from 17th July 1955 on wards. She will be deemed to be a continued class IV employees till the date of her retirement. The corporation shall give her all the benefits that accrue to a permanent workman with effect from 17th July 1995 till her retirement. She will also be entitled to for all the retiral benefits that accrue to her as consequence of this award. The workman have brought to my notice award dated 27th May, 2002 passed by Mr. Justice U.P.Sharma in reference No. 39 of 1992 at Calcutta. A similar conclusion has been reached in that award against the L.I.C. The workman who were sweeping more that 10,000 sq. feet of floor area were directed to be given permanent full time stadtus. Accordingly this reference is answered by stating thal L.I.C. shall treat the workman Radhabai Nawar as a full time permanent class IV employee from 17th July 1995. She shall be given her pay and allowances according to her status as per regulations/rules. She shall also be entitled to retrial benefits. There shall be no order as to costs.

S. C. PANDEY, Presiding officer

नई दिल्ली, 14 जनवरी, 2004

का. आ. 292.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार देना बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चैन्नई के पंचाट (संदर्भ संख्या 134/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-1-2004 को प्राप्त हुआ था।

[सं. एल. 12011/81/2003-आई.आर. (बी-II)]

एन० पी० केशवन, डैस्क अधिकारी

New Delhi, the 14th January, 2004

S.O. 292.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 134/2003 of the Central Government Industrial Tribunal-Cum-Labour Court, Chennai as shown in the Annexure in the industrial dispute between the management of Dena Bank, and their workmen, received by the Central Government on 14-1-2004.

[No. L-12011/81/2003-IR (B-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL -CUM-LABOUR COURT, CHENNAI

Monday, the 22nd December, 2003

Present : K. JAYARAMAN,
Presiding Officer

INDUSTRIAL DISPUTE NO. 134/2003

(In the matter of the dispute for adjudication under clause

(d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Dena Bank and their workman)

BETWEEN

The General Secretary : I Party/Claimant
Dena Bank Employees Union

AND

The Regional Manager,
Dena Bank, Chennai. : II Party/Management

Appearance:

For the Petitioner : Mr. K. Vasu Venkat
Advocate

For the Management : M/s. P.S. Seetharaman,
Advocates

AWARD

The Central Government, Ministry of Labour vide Notification Order No. L-12011/81/2003-IR(B-II) dated 18-08-2003 has referred the following dispute to this Tribunal for adjudication :—

“Whether the action of the punishment of Dena Bank in dismissing Smt. K. Madhumthi from service vide order dated 2-7-2003 is legal and justified? If not what relief is the employee entitled to?”

2. After the receipt of the reference, it was taken on file as I.D. No. 134/2003 and notices were issued to both the parties and both the parties entered appearance through their advocates. the matter was adhoumred for filing Claim Statement of the I Party/Claimant.

3. When the matter was taken up for hearing on 22-12-2003, the counsel on record for the I party/Claimant filed a memo requesting this Tribunal to permit the I Party/Claimant to withdraw this industrial dispute, with a liberty to raise a fresh Industrial Dispute, if it is necessary. The counsel for the Respondent /Managemnet has not objected for the same.

4. In view of the above, the I Party/Petitioner is permitted to withdraw this Industrial Dispute, with a Liberty to raise a fresh Industrial Dispute, if found necessary after the Respondent/Managemant passes an order in the domestic appeal pending before the Appellate Authority.

5. This industrial dispute is dismissed as withdrawn by the I Party. No Costs.

6. The reference is disposed of accordingly.

(Dicated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 22nd December, 2003).

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 15 जनवरी, 2004

का. आ. 293.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी एस डी

कैप्टीन के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चैन्नई के पंचाट (संदर्भ संख्या 2/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-1-2004 को प्राप्त हुआ था।

[सं. एल. 14012/60/2001-आई.आर. (डी. यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 15th January, 2004

S.O. 293.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. No. 6/2002 of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the industrial dispute between the employers in relation to the management of C S D Canteen and their workmen, which was received by the Central Government on 15-1-2004.

[No. L-14012/60/2001-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 10th December, 2003

Present : K. JAYARAMAN,
Presiding Officer

INDUSTRIAL DISPUTE NO. 6/2002

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of The General Officer Commanding, CSD canteen, HQ ATNKK&G area (Abr) and their workman Sri K. Kalyana Sundaram)

BETWEEN

Sri K. Kalyana Sundaram : I Party/Workman

AND

The General Officer Command- : II Party/Management
ing CSD canteen, HQ ATNKK&G
area (Abr) Chennai.

APPEARANCES:

For the Petitioner : M/s. S.Ravi & D.Anni
Besant Advocates
For the Management : Mr. P.Jerome Pushparaj
Advocate

AWARD

The Central Government, Ministry of Labour vide Notification Order No. L-14012/60/2001-IR(DU) dated 01-01-2002 has referred the following dispute to this Tribunal for adjudication :—

“Whether the termination of Shri K.Kalyana Sundaram by the management of CSD Canteen, Island Grounds, Chennai is legal and justified? If not, what relief the workman is entitled to?”

2. After the receipt of the reference, it was taken on file as I.D.No.6/2002 and notices were issued to both the parties and both the parties entered through their advocates and filed their respective Claim Statement and Counter Statement.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows:—

The Petitioner was appointed as Assistant Manager in ATNKK&G area canteen by an order dated 20-10-94 issued by General Officer Commanding, H.Q. Madras and on his completion of probation, his service was confirmed by an order dated 1-5-95. The Petitioner worked sincerely, diligently to the satisfaction of his superiors. Even though he was designated as Assistant Manager, his work was purely clerical in nature. The said canteen is holding a current account bearing No. 56002 at State Bank of India Srivilliputhur branch. The Petitioner remits daily collection in the said account and get pass book updated only in Saturdays. On 7-6-2000, he went to the bank around 1-3-55 hrs. to deposit a sum of Rs. 96,894/-. He has filled the denomination in the back side of challan and also mentioned the total amount as Rs.96,894/-. But, unfortunately, he made a mistake in front page of the challan, wherein he mentioned only Rs.86,894/- instead of Rs. 96,894/-. He remitted the said amount in the bank and the Cashier returned the counter foil with bank seal. After three days, after collecting passbook, he has seen that the amount entered was only Rs.86,894/- instead of Rs. 96,894/-. Immediately, he reported the matter to the bank Accountant, but he was asked to come on Monday. On Monday, when he has demanded the original challan, he was told that it was not traceable and he had given a complaint in writing on 13-6-2000 to the Branch Manager and met the Branch Manager on 14-6-2000. But his attempt was in vein and therefore, he has given a criminal complaint on 6-7-2000 to the police. Further, the Petitioner has given a complaint to the Central Vigilance Commissioner and on his initiation, the State Bank of India enquired the matter and transferred the Head Cashier to Manamadurai branch and initiated disciplinary proceedings against the Head Clerk. In the meantime, the Petitioner was suspended by the order of Respondent on 20-6-2000 and he was terminated from service on 9-7-2000. But before terminating the service of the Petitioner, the Respondent has not followed the procedure as prescribed under Industrial Disputes Act, 1947. The impugned order is punitive and it is contrary to law and it is illegal. The Petitioner was not given any reasonable opportunity before termination. The Petitioner also filed a Writ Petition before the High Court against to bank praying for Writ of Mandamus to furnish xerox copy of the credit challan of Current Account No. 56002 dated 7-6-2000 remitted towards the account of ATNKK & G Area Canteen at State Bank of India, Srivilliputhur. Therefore, he prays that an Award may be passed in his favour.

4. As against this, the Respondent in the Counter Statement contended that CSD Canteen is a social welfare organisation, which is run purely in the interest of serving defence personnel, who were retired from service and also for the benefits of family members. It is exempted from the purview of Income Tax Act, Commercial Tax Act and other local laws and therefore, the petition filed by the Petitioner is untenable and no jurisdiction to try this case before this Tribunal. The Petitioner's appointment was only on temporary basis and his services can be terminated without any notice and it was categorically agreed that contract will not come under Industrial Law or Labour Law and therefore, the petition is not maintainable in law. It is clearly established that the Petitioner has misappropriated the funds of CSD Canteen to the tune of Rs.10,000/- and he has paid after the period of ten days when the same was exposed. The alleged incident has occurred on 7-6-2000. But he has met the Branch Manager of the bank only on 14-6-2000 and he has given a complaint only on 6-7-2000 to the police and therefore, these are all an afterthought and only a patch work to evade his responsibility. The enquiry was conducted by the General Officer Commanding, Vice Chairman and Canteen Officer and in that enquiry, the guilt was proved and he has been terminated and the same was in accordance with the procedures and law and the Petitioner was given opportunity and it is not punitive. Since his employment is only on contract basis, it will not come under the purview of Industrial Disputes Act or Labour Act. Hence, the Respondent prays that the claim may be dismissed with costs.

5. In these circumstances, the point for my determination are —

- (i) "Whether the termination of Sri K.Kalyana Sundaram by the management of CSD canteen illegal and justified?"
- (ii) "Whether the Industrial Disputes Act is applicable to the Respondent Canteen?"
- (iii) "To what relief the workman is entitled?"

Point No. 1 & 2 :—

6. The admitted facts in this case are the Petitioner was appointed as Assistant Manager in ATNKK & Garea canteen, Tirunelveli under original of Ex. W1 and his service was extended periodically under Ex. W5 and the Respondent canteen is holding current account bearing No. 56002 in State Bank of India, Srivilliputhur branch. The Petitioner has gone to the bank on 7-6-2000 for depositing an amount of Rs.96,894/-, but an amount of Rs.86,894/- was only entered into the account books and the Petitioner was suspended by an order dated 20-6-2000 under the original of Ex. M1 and subsequently he was terminated from service on 9-7-2000 under the original of Ex.M7. In this case, the Petitioner has examined himself as WW1 and marked 22 documents as Ex.W1 to W22 and on the side of the Respondent Lt.Col. Shyam Prasad Paliath (Rtd.) was examined as MW1 and nine documents Ex.M1 to M9 were marked on their side.

7. The case of the Petitioner is that on 7-6-2000 he has filled the denomination of notes and he has put the total amount as Rs.96,894/- in the back side of the challan and he has actually remitted an amount of Rs.96,894/- into the bank. But he has inadvertently filled the challan in front side as Rs.86,894/- instead of Rs.96,894/- and this mistake was found by him only on 10-6-2000 while seeing entries in the passbook and immediately he informed the same to bank officials and they asked him to come on Monday i.e. on 13-6-2000. But when he went to the bank on 13-6-2000, they have not given any appropriate reply and therefore, he has given a written complaint to the Assistant Manager available in the bank and the Petitioner contacted the Manager on 14-6-2000 and he enquired the officials of the bank in which Cashier of the bank has promised to repay the amount of Rs.10,000/- before 16-6-2000 and since he has not paid the amount on 16-6-2000, the Petitioner informed the same to the higher authorities of Respondent and further he has given a police complaint on 6-7-2000. In the meantime, the Respondent authorities suspended the Petitioner and subsequently, terminated the Petitioner from service.

8. It is argued on behalf of the Petitioner that before terminating the services of the Petitioner, the Respondent has not followed any procedure as prescribed in law. It is punitive in law. It is established in this case that the entire fraud has been committed by the bank official namely the cashier. Only upon inadvertence, the Petitioner has made such entry in filling up the challan and the Petitioner in this case was not given any reasonable opportunity in the enquiry and the enquiry was not conducted in accordance with law. He further argued that principles of natural justice has been violated and the impugned order of termination is not valid in law.

9. But, as against this, the counsel for the Respondent argued that CSD canteen is a social welfare organisation and is exempted from the purview of industrial laws. Even in the appointment order Ex. W1, it is clearly mentioned that his appointment is only temporary and his service can be terminated without any notice and the Petitioner is also agreed to that contract, hence this petition is not maintainable. Secondly, it is false to contend that the Petitioner was not given an opportunity in the enquiry. On the other hand, the Petitioner has participated in the enquiry conducted by the higher officials namely the General Commanding Officer and Vice Chairman and Canteen Officer of the Respondent and the Petitioner pleaded sympathy of the Respondent and therefore, it is false to contend that no principles of natural justice has been followed. It is his further argument that the Respondent/Management's Enquiry Officer has found that the Petitioner has misappropriated the funds of canteen to the tune of Rs.10,000/- and further strengthened by the deposit of the amount of Rs.10,000/- after a lapse of ten days by the Petitioner and in these circumstances, it is

false to allege that the enquiry was not conducted in a just and proper manner.

10. But, in this case, the Respondent has not produced any document to show that CSD canteen is exempted from the purview of the Industrial Laws and other Laws. Therefore, I do not find any point in the contention of the Respondent that this petition is not maintainable before this Court.

11. The learned counsel for the Petitioner argued that in this case, even though the Respondent alleged that enquiry was conducted, it is only an investigation report and not an enquiry report and in the investigation report, it is clearly stated that no document was marked and no witness was examined. Under such circumstances, it is clear that no opportunity was given to the Petitioner to represent his case. It is only the investigation officer who has come to an unilateral conclusion and therefore, it was not an enquiry at all. Further, no charge has been framed against him and therefore, no reliance can be placed on the report of the investigation officer. Further, the learned counsel for the Petitioner argued that principles of natural justice has been violated in this case and he relied on the ruling 1993 II LLN 575 SC D.K. YADAV Vs. J.M.A. INDUSTRIES LTD., wherein the Supreme Court while considering whether the impugned action of the Respondent/Management is in violation of principles of natural justice has held that *"the aim of rule of natural justice is to secure justice or to put it negatively to prevent miscarriage of justice. These rules operate in the area not covered by law validly made or expressly excluded. It is a settled law that certified Standing Orders have statutory force which do not expressly exclude the application of principles of natural justice. Conversely the Act made exceptions to the application of principles of natural justice by necessary implication from specific provisions in the Act like Sections 25F, 25FF, 25FFF etc. Particular statute or statutory rules or orders having statutory flavour may also exclude the application of the principles of natural justice expressly or by necessary implication. In other respects, the principles of natural justice would apply unless the employer should justify its exclusion on given special and exceptional exigencies. The cardinal point that has to be borne in mind, in every case, is whether the person concerned should have a reasonable opportunity of presenting his case and the authority should act fairly, justly, reasonably and impartially. It is not so much to act judicially but is to act fairly, namely the procedure adopted must be fair, just and reasonable in the particular circumstances of the case. In other words, application of principles of natural justice that no man should be condemned unheard intends to prevent the authority from acting arbitrarily affecting the rights of the concerned person."* The learned counsel for the Petitioner further argued that no opportunity was given to the Petitioner and no documents were filed before the enquiry and no witness was examined before the Petitioner and therefore, it cannot

be said as an enquiry and it is only an unilateral report of the investigation officer and as such the termination order passed on the basis of investigation report is non-est.

12. I find some force in the contention of the learned counsel for the Petitioner because, it is clear from the documentary and oral evidence adduced in this case that the bank official had committed the fraud and the cashier has misappropriated the amount of Rs. 10,000/- belonging to the Respondent/Management. It is also established by the Petitioner that the bank has purposely suppressed the original challan filled by the Petitioner and after the enquiry conducted against the cashier of the State Bank of India, he has been dismissed from service. In this case, though it is alleged that the Petitioner has misappropriated the funds, it is his inadvertence that he has wrongly filled up the challan and this fact has not been informed to his higher officials. But, on this ground alone, it cannot be said that the termination of his service is proper and just punishment against the Petitioner. Therefore, on consideration of the entire evidence in this case, I find the Respondent has not produced any documentary proof for exemption that the Respondent/Management is exempted from the purview of the Industrial Law and therefore, this petition is maintainable and in view of my above finding that no principles of natural justice has been followed, I find the enquiry conducted by the Respondent/Management against the Petitioner and the impugned action are violative of principles of natural justice. Therefore, I find these points against the Respondent/Management.

Point No. 3 :—

The next point to be decided in this case is to what relief the Petitioner is entitled?

13. The Respondent/Management did not conduct the domestic enquiry against the Petitioner/Workman in a just and proper manner in accordance with law and there is a violation of principles of natural justice, as no opportunity was given to the Petitioner and equally, the appellant/Petitioner has made a mistake while filling up the challan and also made a mistake by not informing the same to his higher officials immediately. Under such circumstances, I find even though the Petitioner/Workman Sri K. Kalyana Sundaram is entitled to reinstatement, he is not entitled to 50% of back wages and 50% of back wages alone would meet the ends of justice. Therefore, I direct the II Party/Management, the General Officer Commanding, CSD Canteen, H.Q. ATNKK&G area (Abr), Chennai to reinstate the Petitioner Sri K. Kalyana Sundaram into service immediately and pay him 50% (fifty per cent) of back wages from the date of receipt of this Award. No Costs.

14. The reference is answered accordingly.

(Dictated to the P A, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 10th December, 2003.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :—

For the I Party/Workman : Sri K. Kalyanasundaram

For the II Party/Management : Lt. Col. Shyam Prasad
Paliath (Rtd)**Documents Marked :—****For the I Party/Workman :—**

Ex. No.	Date	Description
W1	20-10-94	Xerox copy of the appointment order issued to Petitioner
W2	13-06-2000	Xerox copy of the letter from Petitioner to Branch Manager, State Bank of India
W3	09-07-2000	Xerox copy of the suspension order issued to Petitioner
W4	08-10-94	Xerox copy of the offer of appointment issued to Petitioner
W5	01-05-95	Xerox copy of the order issued by Respondent to Petitioner for extension of service
W6	19-06-2000	Xerox copy of the letter from Respondent to Petitioner
W7	20-06-2000	Xerox copy of the letter from Respondent to Zonal Manager, State Bank of India, Madurai
W8	01-07-2000	Xerox copy of the letter from Petitioner to Branch Manager, State Bank of India
W9	06-07-2000	Xerox copy of the police complaint preferred by the Petitioner
W10	24-07-2000	Xerox copy of the letter from Petitioner to Central Vigilance Commissioner.
W11	29-01-2003	Xerox copy of the order of High Court in W.P. No. 15005 of 2001
W12	27-06-2002	Xerox copy of the disciplinary proceedings of State Bank of India
W13	22-07-2000	Xerox copy of the letter from Petitioner to Respondent
W14	01-08-2000	Xerox copy of the letter from Branch Manager, State Bank of India to Petitioner
W15	05-08-2000	Xerox copy of the letter from Banking Ombudsman To Petitioner
W16	21-08-2000	Xerox copy of the letter from Banking Ombudsman To Petitioner
W17	13-08-2000	Xerox copy of the letter from Banking Ombudsman To Petitioner
W18	09-10-2000	Xerox copy of the letter from Vigilance Department of State Bank of India to Petitioner

W19	23-12-2000	Xerox copy of the letter from Petitioner to Deputy General Manager State Bank of India
W20	22-03-2001	Xerox copy of the letter from Petitioner to Respondent
W21	30-03-2001	Xerox copy of the letter from Petitioner to Respondent
W22	20-09-2001	Xerox copy of the letter from Asstt. General Manager State Bank of India to Petitioner

For the II Party/Management :—

Ex. No.	Date	Description
M1	20-06-2000	Xerox copy of the suspension order issued to Petitioner
M2	19-06-2000	Xerox copy of the confidential letter from Respondent To Petitioner
M3	Nil	Extract of administrative guidelines of Respondent
M4	20-10-94	Xerox copy of the appointment order issued to Petitioner
M5	19-06-2000	Xerox copy of the letter from Petitioner to Respondent
M6	30-06-2000	Xerox copy of the investigation report.
M7	July, 2000	Xerox copy of the termination order issued to Petitioner

नई दिल्ली, 15 जनवरी, 2004

का. आ. 294.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या एल. सी. आई. डी.-212/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-1-2004 को प्राप्त हुआ था।

[सं. एल-40025/1/2004-आई.आर. (डी. यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 15th January, 2004

S.O. 294.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. LICD-212/2002) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Deptt. and their workman, which was received by the Central Government on 15-1-2004.

[No. L-40025/1/2004-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM-LABOUR COURT AT HYDERABAD****PRESENT:**

SHRI E. ISMAIL, B. SC., LL.B, Presiding Officer

Dated the 28th day of November, 2003

INDUSTRIAL DISPUTE NO. L.C.I.D. 212/2002**BETWEEN:**Sri A. Gurumurthy,
Cuddapah.

...Petitioner

AND1. The Chief General Manager Telecom,
A.P. Circle, Hyderabad.2. The Telecom District Manager,
Cuddapah.3. The Sub-Divisional Officer,
Telephones, Cuddapah.

...Respondents

APPEARANCES:For the Petitioner : Mr. R. Yogender Singh &
V.Kiran kumar, AdvocatesFor the Respondent : Sri R.S. Murthy,
Advocate**AWARD**

This is a case taken under Sec. 2 A (2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others and numbered in this Court as L.C.I.D. No. 212/2002 and notices were issued to the parties.

2. This Petition was filed by the Petitioner for reinstatement into service with the Respondent. Respondents filed IA No. 41/2003 stating that the matter was fully adjudicated in ID No. 261/1990 upon a reference from Central Government by the Industrial Tribunal-cum-Labour Court, Anantpur. An Award was passed dated 16-6-1992 holding that the Petitioner is not entitled for any relief as he failed to establish his continuous service for more than 240 days in a calendar year. That the principles of resjudicata applies to this matter. The Petitioner stated in his counter (In IA No. 41/2003) that it is not barred by resjudicata. It was held by this court in IA. No. 41/2003 by allowing the petition, that the LCID No. 212/2002 is not maintainable as the previous Judgement of the Industrial Tribunal-cum-Labour Court, Anantpur in ID No. 261/1990 is res judicata. Accordingly, the petition is dismissed. Transmit.

Dictated to Kum. K. Phani Goweri, Personal Assistant transcribed by her corrected and pronounced by me on this the 28th day of November, 2003.

E. ISMAIL, Presiding Officer

Appendix of evidenceWitnesses Examined for the
Petitioner

NIL

Witnesses examined for
the Respondent

NIL

Documents marked for the petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 15 जनवरी, 2004

का. आ. 295.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबंध में निर्विवाद औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या एल. सी. आई. डी.-99/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-1-2004 को प्राप्त हुआ था।

[सं. एल. 40025/2/2004-आई.आर. (डी. यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 15th January, 2004

S.O. 295.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947) the Central Government hereby publishes the Award (Ref. No. L.C.I.D.- 99/2002) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between employers in relation to the management of Telecom Deptt. and their workman which was received by the Central Government on 15-1-2004.

[No. L-40025/2/2004-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM-LABOUR COURT AT HYDERABAD****PRESENT:**

SHRI E. ISMAIL, B. SC., LL.B., Presiding Officer

Dated the 2nd day of December, 2003

INDUSTRIAL DISPUTE L.C.I.D.No. 99/2002**BETWEEN:**Sri Syed Ziaur Rehman,
S/o Late Rehaman,
D.No.18/234, G.C. Street,
Cuddapah -516001.

..... Petitioner

AND1. The Chief General Manager,
Telecommunications,
Hyderabad.

2. The Sub-Divisional Officer,
Telephones,
Cuddapah -516001.

... Respondents

APPEARANCES:

For the Petitioner: M/s R. Yogender Singh, V. Kiran
Kumar & K. Sunil Kishore Goud,
Advocates

For the Respondent: Sri R.S. Murthy, Advocate

AWARD

This is a case taken under Sec.2 A (2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No.8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief facts as mentioned in the petition are : That the Petitioner worked as ticket boy and performed his duties in the office of Telephone Exchange from 1982 to 1984. That the Petitioner worked for more than 240 days in a year. The Petitioner worked for 290 days during the period April, 1982 to March, 1983 and for 350 days during the period April, 1983 to March, 1994. Presently he is working with the Respondent on contract basis. He was sponsored by the employment exchange, Cuddapah. Petitioner's name was removed from the employment exchange after his engagement with the SDO Telephones, Cuddapah. That after disengagement from the service, the Petitioner worked under A.C.G-17 for a period of 10 years. The Petitioner worked under contract labour from 1995-2000. That many persons juniors to him are allowed to work. Hence, the Respondent may be directed to reinstate him with continuity of service.

3. A counter was filed stating that the Respondents are entrusted with the responsibility of setting up and maintenance of telephones and telegraphs through the control of Ministry of Communications under the Government of India Allocation of Business Rules, 1961. For the purpose of laying down cables, digging, carrying loads, huge manual work force is required. Works are of intermittent nature and not continuous. Hence, to cope up with such work persons are appointed temporary and casual workers are appointed. That the Petitioner seek relief on the bald assertion that he worked as ticket boy under J.E. Trunks from 1982 to 1984 without any details of including the place and orders of engagement while the record for the said period was weeded out by efflux of time. That daily wagers in the absence of any sanctioned post cannot make any claim against permanent employment.

4. The Petitioner examined himself as WW1 and deposed that he worked as ticket boy from 1-4-1982 to April, 1984. Then he was asked not to attend work by the then J.E. Subsequently, in the same post one lady was engaged who died in a fire accident. After 1984 he was asked to attend the work of Department by working under

a contractor. No notice at the time of removal. That his name was sponsored from employment exchange. Still he was not considered for regularisation. S/Sri Subha Reddy, Basha, Raju and others also who are far juniors to the Petitioner were regularized. Ex.W1 is the letter dated 16-6-1983. Ex.W2 muster rolls showing his engagement with effect from 1-4-1982 to April, 1984. Ex.W3 is dated 5-2-2000 is his representation. Ex.W4 certificate from contractor under whom he is working currently. In the cross examination he deposed that his date of birth is 9-7-1962. He was sponsored by employment exchange in 1983. New Telephone Exchange was opened at Cuddapah. He was engaged as a casual mazdoor by one Mr. O. Naganna. He was paid Rs.210/- monthly. Sri Eeshwar Reddy is a contractor from 1987 under whom he is working. That he is aware that casual mazdoors are engaged on the basis of work order and the work orders are issued for time bound works. He does not know whether any of the persons working along with him are reinstated or regularized with the Department. The Hon'ble Supreme Court directed to regularize the service of those casual labourers who have completed 240 days on or before completion of the year 1985. He denied that he is not entitled for reinstatement.

5. The Respondent examined Sri M. Venkatasubbarayudu, Sub-Divisional Officer Telephones Cuddapah, who deposed that he never represented to any of them for his alleged termination. That even if his appointment is correct he has approached after 15 years, the claim is stale and may be dismissed. In the cross examination he deposed that as per the contention of the Petitioner he was engaged by the Respondent during the year 1982-84. Ex.W2 purports to be muster rolls from 1-4-1982 to April, 1984.

6. It is argued by the Learned Counsel for the Petitioner that he has been sponsored by the employment exchange. He has worked as per Ex.W2 for more than 240 days. His termination was bad in law and he is still working under a contractor and this imposing of a contractor is only to see that the Petitioner do not become regularized. To deprive these poor persons these contractors are brought into picture. That Ex.W4 has been issued by the contractor. That he has worked from 1987 till date under a contractor. As the termination was without following Sec.25F and other provisions of law he may be reinstated.

7. The Learned Counsel for the Respondent argued that no question of application of Sec.25F would arise for a person who was on casual basis. However, even if for argument sake he has worked, he has approached this Court after a lapse of 18 years. That itself is sufficient that he is not entitled for any relief.

8. It may be seen as per Ex.W1 xerox copy he has been sponsored by the employment exchange. Ex.W2 is the copy of the muster rolls. Ex.W3 is the notice issued by the Petitioner on 5-2-2000 wherein he is said to have made

representation on 5-12-89, 1989, 1990. Ex.W4 is the contractor's certificate. Even if he has made his representation he has made in 1984, 1989, 1990 and kept quite for ten years and again made representation through Ex. W3 and he is already working under a contractor. The question whether the contractor is a camouflage to deprive this person from benefits can only be decided by a reference. It cannot be decided here. He has approached the Court. after a gap of 15 years and that itself is sufficient not to grant any relief Hence an award is passed holding that the Petitioner is not entitled for reinstatement except if in future if the Respondent employs any casual labour the Petitioner may be given preference over others taking his date of joining as April, 1982 and taking his age as on 1st April, 1982. Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 2nd day of December, 2003.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner Witnesses examined for the Respondent

WW1: Sri Syed Ziaur Rahman MW1: Sri M. Venkatasubbarayudu

Documents marked for the Petitioner

Ex.W1: Copy of Ir. No.E/CM/83-84/20 dt. 16-6-83.
Ex.W2: Copy of muster rolls of WW1 from 1-4-82 to April, 1984 :
Ex.W3: Copy of WW1's representation dt. 5-2-2000.
Ex.W4: Copy of certificate of contractor (WW1 presently working under him).

Documents marked for the Respondent

Ex.M1: Copy of appendix 3 to P&T FHB Vol III—
Ex.M2: Copy of DGP&T 270/6/84-STN dt.30-3-85.
Ex.M3: Copy of Memorandum of M/o Personnel dt.7-6-88.
Ex.M4: Copy of Ir.No.DOT New Delhi 270/6/84-STN dt.22-6-88.
Ex.M5: Copy of DOT Ir.269-4/93-STN (Pt) dt.12-2-99.
Ex.M6: Copy of award of IT/HYDERABAD in ID No.54/91 dt.2-5-94.
Ex.M7: Copy of award of IT/HYDERABAD in ID No.55/91 dt.2-5-94.
Ex.M8: Copy of award of IT-II/HYDERABAD in ID No. 10/2000 2-8-2000.
Ex.M9: Copy of order No.L-40011/18/2001-IR(DU) dt.11-9-2001.
Ex.M10: Copy of Judgement of A.P. H.C.in WA 83/98 dt.5-2-2002.

Ex.M11: Copy of Judgement of H.C. of Chennai in WA No.600/96 dt.7-9-2001.
Ex.M12: Copy of DGT, New Delhi Ir.No.26-10/89-STN dt.7-11-89.
Ex.M13: Copy of DOT/New Delhi Ir.No.269-3/92-STN dt.21-10-92.

नई दिल्ली, 15 जनवरी, 2004

का. आ. 296.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या एल. सी. आई. डी.-25/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-1-2004 को प्राप्त हुआ था।

[सं. एल.-40025/3/2004-आई.आर. (डी. यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 15th January, 2004

S.O. 296.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. LCID 25/2002) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the industrial dispute between the employers in relation to management of Telecom Deptt. and their workmen, which was received by the Central Government on 15-1-2004.

[No. L-40025/3/2004-IR (DU)]

KULDIPRAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM-LABOUR COURT AT HYDERABAD

PRESENT: Shri E. Ismail, B.Sc., LL.B.,
Presiding Officer

Dated the 28th day of November, 2003

INDUSTRIAL DISPUTE L.C.LD.No.25/2002

BETWEEN:

Sri A. Rajamouli,
Pochaiah,
C/o Labour Law consultants,
"House of Labour" Kingkothi Road,
Hyderabad - 29.

.... Petitioner

AND

1. The Director, Maintenance STSR,
6-1-85/18, 2nd floor, Sai Nilayam,
Saifabad, Hyderabad.

2. The Divisional Engineer, Telecom,
Microwave Maintenance,
3rd floor, Telephone Bhavan,
Saifabad, Hyderabad.

.... Respondents

APPEARANCES:

For the Petitioner : M/s R. Yogender Singh, V. Kiran Kumar & K. Sunil Kishore Goud, Advocates

For the Respondent : Sri R.S. Murhty, Advocate

AWARD

This is a case taken under Sec.2 A (2) of the I.D. Act, 1947 in view of the judgement of the Hon'ble High Court of Andhra Pradesh reported in W.P. No.8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief facts as mentioned in the petition are: That the Petitioner was appointed as casual mazdoor on 1-12-90 for the Microwave Maintenance Work on a monthly salary of Rs.1373/-. No appointment order was issued. But all the benefits were extended and they used to pay wages once in a month without any deductions. He worked continuously without any break and completed more than 240 days in a year. The Petitioner used to do all types of work like watch and ward, cleaning of batteries, starting of engine, sweeping etc.. The Respondent have circulated a letter bearing No.CCME/7/13/CM/93-94 dated 17-1-1994, signed by the Assistant General Manager, Southern Telecom Region, Madras and the said letter/seniority list was communicated by the 1st Respondent to all the subordinates. The Petitioner's name appeared in this list at Serial No.55. When the Petitioner was working without any valid reason and just with a plea there is a "ban" from 20-6-1988 he was orally terminated from 11-3-1993 by giving one month notice pay. While terminating him from service other juniors who were appointed in 1991, and three juniors were appointed in 1991 at serial Nos.60,61, and 63 were regularized. So also seniors to him at Serial Nos.40,42,43,44 and 45 were appointed. Though the above five persons were terminated in 1994 they got the stay orders and continued. During this continuation they were made regular. The Directorate of the Respondent through their letter No.66-52/92-SPB-1 dated 1-11-95 issued directions that 'casual labourers' reported after 29-11-89 and upto 10-9-93 may also be considered for grant of benefit under the scheme and several of his juniors as stated above were regularized. The Petitioner was insisting the Respondent to regularize the services and also permit him to appear in the examination for the Phone Mechanic but only assurance was given. Now they are getting the same work done through contract labour by entrusting to the contract labour. 69 persons were appointed on various dates. The termination is illegal. That he approached the Hon'ble Central Tribunal and then the Hon'ble High Court but in the High Court the Advocate argued only the appointment of contractor and not insisted for reinstatement. Hence, he may be directed to be reinstated with full back wages and continuity of service with interest at 12% p.a.

3. A counter was filed stating that the petition is misconceived and incorrect and is barred by principles of resjudicata. That he first approached the Hon'ble Central Administrative Tribunal wherein OA No.851/1993, orders dated 21-3-95 in OA 852/93, orders dated 26-12-1997 in OA 382/1997 orders dated 17-2-99 in M.A. No.81/99 in O.A. No. 382/97 orders dated 14-6-2001 in WP No.9377/99 orders dated 31-12-2001 in O. A. No.342/2000. In that the Chief General Manager, Telecom., A. P. Circle has not been impleaded. Hence, the petition is not maintainable.

4. That the works are of intermittent nature and are not continuous, The Respondent was engaging him on temporary basis on daily wages to gone up with urgent execution of works. That it does not attract Sec-25-F of the I.D. Act. The Petitioner was initially engaged on such time from 1-12-90 and disengaged from 11-3-93 after completion of work. However, one month wages towards retrenchment compensation was paid not standing the above legal position. That he approached the Hon'ble C.A.T. and then the High Court and even the Division Bench of the High Court dismissed the case as being devoid of merit. That the Hon'ble C.A.T., has considered in detail therefore, it acts as resjudicata.

5. The Petitioner examined himself as WW1 and deposed to the facts stated in the petition and further added that he was informed by letter dated 6-4-93 that his services will be entertained whenever fresh work arises. The letter dated 11-3-93 terminating his services which is Ex. W1. Letter informing him that his services will be entertained when required dated 6-4-93 is Ex. W2. Then he approached the Hon'ble C.A.T. vide OA 851/93 where it was directed to include his name in appropriate place. Accordingly his name was included at Serial No. 55. Again when his services were not regularized as per his seniority he approached the Hon'ble C.A.T. vide OA No. 852/93, wherein a similar order was given by the Hon'ble C.A.T. That he is at Serial No.55, juniors to him at Serial Nos.60, 61 & 63 were engaged and regularized. Ex. W4 is tender notice dated 29-8-94 wherein the Department called for the sealed tenders for engagement of workers on contract basis. Ex. W5 is the letter wherein the circle office directed the concerned officers of the Divisions to furnish the details of full time casual employees appointed during 29-11-89 to 10-9-93. Ex. W6 is a copy of letter from Directorate wherein there was a direction to consider for granting of all service benefits to the casual labourers recruited after 29-11-89 upto 10-9-93. In the cross examination he deposed that he was engaged as casual labour first at Siddipet then at Kondapur. He was not given any notice but was paid one month pay. It is correct that the Hon'ble C.A.T. dismissed his OA No.851/93 on 21-3-95 holding that his retrenchment was correct as he was paid one month notice pay. The Hon'ble C.A.T. award was confirmed by Hon'ble High Court in WP No. 9377/99.

6. The Management examined Sri B. Nagesh Rao, Assistant General Manager (Admn.) West, BSNL, Hyderabad who deposed that a notice was issued and duly served on 11-3-93 by paying advance wages along with arrears amounting to Rs. 3233/-. That the Petitioner has been approaching continuously the Hon'ble C.A.T. and then Hon'ble High Court, which also dismissed, again he approached the Hon'ble C.A.T., again it was dismissed. Hence, it is resjudicata matter has already decided in OA Nos. 851/93, 382/97-WP 9377/99 and O. A. 342/2000.

7. In the cross examination he deposed that the Petitioner was engaged on 1-12-90. He has completed 240 days of service in one year. That the Petitioner filed OA 852/93. He also filed OA No. 382/97. But failed to obtain any directions. Ex. W3 is the list of casual workers where Petitioner's name is at Serial No. 55. As he was already terminated by paying compensation he was not considered as per Ex. W3. The persons whose names reflected in Serial No. 42 to 45 were appointed on the same day during 1990 only. That in the Hyderabad Circle no junior to Petitioner or on par with him was regularized.

8. It is argued by the Learned Counsel for the Petitioner that the Petitioner was appointed on 1-12-90 and was terminated orally on 11-3-93. Questioning the termination the Petitioner preferred OA 851/93 before the Hon'ble C.A.T.. Where a direction was passed to place the name of the Petitioner in the proper place and to engage in preference to juniors. When they failed to apply, to implement the above directions the Petitioner preferred OA 382/97 wherein the Respondent got direction to incorporate the name of the Petitioner in the register of retrenched casual mazdoor whenever the ban is lifted, subsequent to this the Petitioner filed WP 9377/99 questioning the Respondent's action in allotting the work of casual mazdoors with the contractors, which was dismissed. That the Respondents are bound by Departmental orders and regularize the services of the Petitioner. That the termination is entirely against Sec. 25F (a) and (b) of the Act. He was not given one month of notice in writing. He was not paid compensation equivalent to 15 days average pay for completed years of service.

9. The judgements are in resjudicata because it is not based on circumstantial and documentary evidence, but only on facts. The disposals are not on merits which have not covered the aspects of I.D. Act wherein it is mandatory that the termination should be followed by notice and pay in lieu of notice simultaneously. That the Director is having powers to regularize the services of the Petitioner. He issued proceedings dated 14-3-97. The Manager maintenance saying that there are 14 posts lying vacant. Inspite of that he was not engaged on reasons best known. That retrenched persons who are not working in Hyderabad were also regularized, who were at Serial Nos. 59 to 63, who are juniors to the Petitioner. That one Mr. C. Subbaiah got an order of retrenchment in through

Industrial Tribunal, Hyderabad in I.D. No. 31/95 dated 17-1-2000. Hence, the Petitioner may be reinstated.

10. It is argued by the Learned Counsel for the Respondent that it is correct that the Petitioner was engaged as casual labour on 1-12-90 for MW maintenance. That he asserted that his services were regularized and he refused to oblige officials/officers. That the orders by the Hon'ble C.A.T. and the Hon'ble High Court have become binding. Hence, this Court cannot again decide the same. The reference to I.D. 31/95 and award thereof of Industrial Tribunal-1 has no bearing to the facts of this case. Hence, no relief is necessary.

11. It may be noted that the Petitioner worked continuously from 1-12-98 as casual mazdoor till 11-3-93 then his services were terminated orally on 11-3-93 by giving him one month notice pay. He has approached Hon'ble C.A.T. vide OA. 851/93 which passed as award dated 21-3-95, wherein the Hon'ble C.A.T., held, "as the applicant has been given one month wages in lieu of rules and retrenchment compensation simultaneous with the retrenchment. Retrenchment was effected after completing all formalities. Hence, he has no right, directing the Respondent to include the name of the Petitioner in appropriate place. Again OA 852/93 was filed. That was also disposed off on the same lines that the absorption with the Respondent re-engage the applicant as and when the work becomes available anywhere in the division in preference to casual labourers with lesser length of casual service than the applicant. Again he filed OA. 382/97 where the direction was to maintain the live register of retrenched casual mazdoors and re-engage the casual mazdoors when the ban is removed. He filed WP No. 9377/99 before the Hon'ble High Court which was disposed off by the Hon'ble Chief Justice and another Hon'ble Judge. Wherein the Hon'ble High Court held that the question was whether inviting tenders of contract labours is valid or not. They confirmed the order of the Hon'ble C.A.T. in OA. 382/97. Practically he exhausted all the remedies without approaching the Central Govt. Industrial Tribunal cum Labour Court or whoever was Incharge for the Tribunal till this Tribunal was established and approached this Tribunal after a gap of nine years. In view of these number of Judgements which is admitted by the WW1 in the cross examination, it has almost become a resjudicata and I have no option but to state the same, what is stated by the Hon'ble C.A.T. to consider the case of the Petitioner as and when work becomes available any where in the division in preference to casual mazdoors with lesser length of casual service than the applicant.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 28th day of November, 2003.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri A. Rajamouli	MW1: Sri B. Nagesh Rao
Documents marked for the Petitioner	
Ex W1:	Copy termination order No.MI/MWII/92-93 dt.11-3-93
Ex W2:	Copy of Ir.No.MW-M-HD/E-13/93-94/17 dt.6-4-93
Ex W3:	Copy of list with Ir.No.CCM/E7/13/CM/93-94 dt.17-1-94
Ex W4:	Copy of tender notice No.DMHD/W-12/94-95/25 dt.29-8-94
Ex W5:	Copy of Ir.No.EST/6-7/ dt. 14-11-95
Ex W6:	Copy of Ir.No.66-52/92-SPB-I reg. Grant of temp. status regularization
Documents marked for the Respondent	
Ex M1:	Copy of retrenchment order No.MI/MW II/92-93 dt.11-3-93

नई दिल्ली, 28 जनवरी, 2004

का. आ. 297.—जबकि मैसर्स चोलामण्डलम इन्वेस्टमेंट एण्ड फाइनेंस कम्पनी लिमिटेड (इसके पश्चात् उक्त प्रतिष्ठान के रूप में उल्लिखित) ने कर्मचारी भविष्य निधि एवं प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (इसके पश्चात् उक्त अधिनियम के रूप में उल्लिखित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन किया है।

और जबकि केन्द्र सरकार के विचार में अंशदान की दरों के संबंध में उक्त प्रतिष्ठान के भविष्य निधि नियम उक्त अधिनियम की धारा 6 में उल्लिखित की तुलना में कर्मचारियों के लिए कम अनुकूल नहीं हैं और कर्मचारी अन्य भविष्य निधि लाभों का भी फायदा उठा रहे हैं कुल मिलाकर इसी प्रकार के किसी अन्य प्रतिष्ठान में कर्मचारियों के संबंध में उक्त अधिनियम के अंतर्गत अथवा कर्मचारी भविष्य निधि स्कीम, 1952 (इसके पश्चात् उक्त स्कीम के रूप में उल्लिखित) के अंतर्गत प्रदान किए जा रहे लाभों की तुलना में कम अनुकूल नहीं है;

अतः अब, केन्द्र सरकार उक्त अधिनियम की धारा 17 की उप-धारा (1)-के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, और समय-समय पर इस संबंध में केन्द्र सरकार द्वारा उल्लिखित शर्तों के अधीन एतद्द्वारा उक्त प्रतिष्ठान को उक्त स्कीम के सभी उपबंधों के प्रचालन से तत्काल प्रभाव से अथवा अगली अधिसूचना तक छूट प्रदान करती है।

[सं. एस. 35015/4/2003-एस.एस.II]

संयुक्ता राय, अवर सचिव

New Delhi, the 28th January, 2004

S.O. 297.—Whereas M/s. Cholamandalam Investments and Finance Company Limited (herein after referred to as the said establishment) has applied for exemption under clause (a) of sub-section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (herein after referred to as the said Act).

And whereas in the opinion of the Central Government the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the said Act or under the Employees' Provident Fund Scheme, 1952 (herein after referred to as the said scheme) in relation to the employees in any other establishment of similar character.

Now, therefore, in exercise of the powers conferred by clause (a) of Sub-section (1) of Section 17 of the said Act and subject to the condition's specified in this regard from time to time, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme, with immediate effect or until further notification.

[No. S-35015/4/03-SS-II]

SANJUKTA RAY, Under Secy.